

1                   **IN THE UNITED STATES DISTRICT COURT**2                   **FOR THE DISTRICT OF PUERTO RICO**

3  
4   THOMAS E. PEREZ, ET AL.,                   )  
5   Plaintiffs,                                   )  
6   )  
7   vs.    )  
8   )  
9   SPECIAL POLICE FORCE CORP., ET AL., )  
10   Defendants.                                   )  
11

CIVIL CASE NO.  
15-1506 (CVR)

Non-Jury Trial

12                   TRANSCRIPT OF FIRST DAY OF NON-JURY TRIAL  
13                   HELD BEFORE THE HONORABLE MAGISTRATE JUDGE CAMILLE VELEZ-RIVE  
14                   SAN JUAN, PUERTO RICO  
15                   Wednesday, February 13, 2019  
16

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31                   Produced by mechanical stenography; computer-aided  
transcription

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**I N D E X**WITNESSESPAGEON BEHALF OF THE PLAINTIFFS:**GLORIANA ORTIZ-CRUZ**

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(PROCEEDINGS COMMENCED AT 9:05 A.M.)

THE CLERK: Civil Case 15-1506, Thomas E. Perez versus Special Police Force Corp. and other Defendants for Non-Jury trial.

On behalf of Plaintiffs are Attorneys Jason E. Glick and Susan B. Jacobs.

On behalf of Defendants are Attorneys Arturo Guzman, Benjamin Guzman, and Ismael Rodriguez.

THE COURT: Good morning to all.

MR. GLICK: Good morning, Your Honor.

MR. RODRIGUEZ-IZQUIERDO: Good morning, Your Honor.

THE COURT: Would counsel please introduce yourselves for the record.

MS. JACOBS: Susan Jacobs for the Plaintiffs, R. Alexander Acosta, Secretary of Labor.

THE COURT: Good morning.

MR. GLICK: Jason Glick, also for Plaintiffs, Secretary of Labor.

THE COURT: Okay.

MR. B. GUZMAN-GUZMAN: Benjamin Guzman for co-Defendant Hector Rivera.

MR. A. GUZMAN-GUZMAN: This is Arturo Guzman on behalf of Freddy De Jesus.

MR. RODRIGUEZ-IZQUIERDO: Good morning, Your Honor.

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1 Ismael Rodriguez-Izquierdo on behalf of co-Defendant SPF,  
2 Special Police Force Corporation.

3 THE COURT: Okay. Perfect.

4 I requested that all witnesses be outside the  
5 courtroom. I believe that has been done.

6 Any housekeeping matters before we proceed, on  
7 behalf of Plaintiffs?

8 MR. GLICK: Yes, Your Honor.

9 We have, as Your Honor is aware, submitted all of  
10 our exhibits. There are a couple, Plaintiff's Exhibits 2 and  
11 3, that have a handful of words in Spanish. So we have  
12 prepared, if the Court would prefer, a translation of just  
13 those portions, which we are happy to present copies of and  
14 circulate it to counsel. If it turns out that the witnesses  
15 are able to testify directly from the documents, then we  
16 wouldn't necessarily need to introduce these translations,  
17 but I think we just wanted --

18 THE COURT: They have to be introduced for appeal  
19 purposes. I cannot admit any exhibit without having the  
20 certified translation.

21 MR. GLICK: We have prepared a translation that is  
22 not certified but, pursuant to local Rule 5(g), has been  
23 signed by a translator, and we have exchanged it with  
24 counsel. And if there is no objection, we would ask that  
25 those translations of those portions be accepted.

1 THE COURT: Okay.

2 Any objection as to that, as to the translations  
3 from counsel for Defendants?

4 MR. RODRIGUEZ-IZQUIERDO: We haven't seen the  
5 documents.

6 THE COURT: You haven't seen the translations?  
7 Okay.

8 Basic rule, I have three counsel for three  
9 Defendants. I need you, every time that you are going to  
10 address the Court, identify yourself. Okay? For purposes of  
11 the record.

12 MR. RODRIGUEZ-IZQUIERDO: Very well.

13 THE COURT: Any objection, Mr. Rodriguez, on your  
14 behalf?

15 MR. RODRIGUEZ-IZQUIERDO: We have no objection,  
16 Your Honor.

17 THE COURT: Okay. Mr. Benjamin Guzman?

18 MR. B. GUZMAN-GUZMAN: No objection at the moment.

19 THE COURT: Mr. Arturo Guzman?

20 MR. A. GUZMAN-GUZMAN: We want to see the  
21 translation of the document.

22 THE COURT: You haven't seen them?

23 MR. A. GUZMAN-GUZMAN: I haven't seen them.

24 THE COURT: Can they be shown, counsel?

25 MR. GLICK: Absolutely.

1 May I?

2 THE COURT: Yes, go ahead.

3 MR. GLICK: I just want to make sure I am bringing  
4 the right copies.

5 MR. A. GUZMAN-GUZMAN: I mean by email.

6 MR. GLICK: Yes, that's correct.

7 MR. A. GUZMAN-GUZMAN: Okay.

8 MR. GLICK: And I have copies for the Court.

9 THE COURT: Okay. Yes.

10 Once we address that exhibit, you can submit the  
11 translations. Let me have those. I will review those.

12 MR. A. GUZMAN-GUZMAN: We have no objection.

13 THE COURT: No objection presented. They can be  
14 submitted once we get to that exhibit.

15 MR. GLICK: Thank you, Your Honor.

16 THE COURT: Anything else?

17 Any other housekeeping matter?

18 No? Okay.

19 So, Ms. Jacobs, are you ready?

20 MS. JACOBS: Yes, Your Honor.

21 THE COURT: Okay. Go ahead.

22 MS. JACOBS: Good morning, Your Honor.

23 THE COURT: Good morning.

24 MS. JACOBS: Your Honor, the facts in this case are  
25 not in dispute. Sometime in 2008, Defendant Hector

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1 Rivera-Ortiz decided he wanted to start a security guard  
2 business. He invested all the money to start Special Police  
3 Force Corporation, and signed and filed all the incorporation  
4 paperwork with the Commonwealth in early 2009.

5 Special Police Force was the security guard company  
6 that placed its employees at various client posts on the  
7 island. During the relevant period of this case, April 2013  
8 through February 2015, Mr. Rivera was the sole owner,  
9 president and treasurer of Special Police Force.

10 The economic reality in this case makes it clear  
11 that Mr. Rivera was an employer of employees as broadly  
12 defined in the Fair Labors Standards Act. He had operational  
13 control over Special Police Force.

14 Mr. Rivera had the authority to hire and fire  
15 employees, supervise, and control workers' conditions of  
16 employment, and determine their rates of pay. He invested  
17 additional money into the company when needed and was the  
18 only individual authorized to sign checks drawn on the  
19 corporation's bank accounts.

20 During the relevant period, Mr. Rivera had an  
21 active role in running Special Police Force. Although he  
22 also worked at the Puerto Rico Electric Power Authority for  
23 part of the relevant period, he was in Special Police Force's  
24 office regularly.

25 He had an active role in processing the payroll,

1 and his signature was on all paychecks given to employees.

2 Starting in June 2014, Mr. Rivera directly oversaw  
3 the company's office employees after he retired from the  
4 Electric Power Authority, until he made the decision for  
5 Special Police Force to cease operations in February 2015.

6 Your Honor will see that Mr. Rivera made key  
7 decisions on business and employment issues. As an example  
8 of Mr. Rivera's authority over pay practices, starting in  
9 2012, Mr. Rivera made the decision to start retaining one  
10 entire week's worth of wages from all employees to help with  
11 the company's cash flow issues.

12 Defendant Special Police Force has admitted that  
13 Mr. Rivera made this decision.

14 Mr. Rivera's decision to put the company's finances  
15 ahead of paying workers was a clear violation of both the  
16 minimum wage and overtime requirements of the FLSA.

17 Many of the workers had to wait up to a year and a  
18 half to receive their withheld pay. This retention scheme  
19 continued until July 2014, when the Department of Labor  
20 informed Mr. Rivera that the scheme violated the FLSA.

21 This decision to adopt unlawful pay practices  
22 should lead to the determination that Mr. Rivera meets the  
23 standard for individual liability for the wage violations.

24 Mr. Rivera is going to argue that in order to apply  
25 for a license to open a security guard business in

1 Puerto Rico, a principal executive officer must have a  
2 private detective license.

3 He will further argue that because he was not a  
4 licensed private detective, he should not be held  
5 individually liable for the wage and recordkeeping  
6 violations. This argument has no bearing on the issue of  
7 whether Mr. Rivera was an employer as defined by the FLSA.

8 Mr. Rivera was the sole owner, president, treasurer  
9 of the company, exercised significant operational control of  
10 the business, and personally made the decision to withhold  
11 employees' wages in order to stem cash flow issues.

12 All of these facts will clearly establish that  
13 Mr. Rivera had authority over his employees' employment and  
14 was an employer under the FLSA, and is, therefore, jointly  
15 and severally liable for the back wages and liquidated  
16 damages previously ordered by the Court.

17 In addition, because Mr. Rivera currently owns and  
18 operates another security guard business under a different  
19 corporate entity, he should be enjoined from future  
20 violations of the FLSA.

21 Further, Defendant Freddy De Jesus was also an  
22 employer as defined by the FLSA.

23 It is well settled that there could be multiple  
24 employers in a company who can be liable for FLSA compliance.

25 The evidence will show that during the relevant

1 period, Mr. De Jesus was the supervisor and a head of  
2 operations who had the authority to and did, in fact, hire,  
3 fire, and discipline employees.

4 Your Honor will hear evidence that Mr. De Jesus was  
5 the top supervisor of the security guards, assigned guards to  
6 their posts, scheduled the guards' hours and helped run the  
7 day-to-day operations of Special Police Force.

8 Mr. De Jesus scheduled many of the security guards  
9 to work more than 40 hours every work week, thereby creating  
10 the obligation that they would be paid proper overtime under  
11 the FLSA. Therefore, Mr. De Jesus should also be held  
12 jointly and severally liable for the back wages and  
13 liquidated damages.

14 In addition, because Mr. De Jesus is currently the  
15 president of Mr. Rivera's new security guard business, he  
16 should also be enjoined from future violations of the FLSA.

17 Lastly, Defendants violated various recordkeeping  
18 requirements of the FLSA. The evidence will show that  
19 Defendants failed to keep records of the total hours worked  
20 by employees each 7-day work week, failed to keep records of  
21 employees' total straight time wages due --

22 THE COURT: I saw two interpreters coming in with a  
23 lady. I am not sure whether she is a witness.

24 MS. JACOBS: She is a witness, Your Honor.

25 THE COURT: Okay. She has to be excluded from the

1 courtroom.

2 MS. JACOBS: Sorry, Your Honor.

3 THE COURT: Okay. Go ahead.

4 MS. JACOBS: I will restart my sentence on  
5 recordkeeping.

6 The evidence will show that Defendants failed to  
7 keep records of the total hours worked by employees each  
8 7-day work week, failed to keep records of employees' total  
9 straight time wages due by 7-day work week, and failed to  
10 maintain records of all employees' home addresses as required  
11 by the recordkeeping regulations.

12 Thank you.

13 THE COURT: Mr. Rodriguez.

14 MR. RODRIGUEZ-IZQUIERDO: Your Honor, the issues  
15 concerning the corporation are limited to the fact that they  
16 failed to keep the recordkeeping policies and practices. As  
17 to that regard, our position would be that that was not a  
18 continued -- that that did not occur all the time. There was  
19 a period of time when that did not occur, and particularly we  
20 understand that the Plaintiffs must establish that beyond a  
21 reasonable doubt, that that did occur.

22 That would be our position.

23 THE COURT: Beyond a reasonable doubt?

24 MR. RODRIGUEZ-IZQUIERDO: I mean by a preponderance  
25 of the evidence. I am sorry, Your Honor.

1 THE COURT: Okay.

2 MR. RODRIGUEZ-IZQUIERDO: And that's our position,  
3 basically.

4 THE COURT: Okay.

5 Mr. Benjamin Guzman.

6 MR. B. GUZMAN-GUZMAN: For the record, Benjamin  
7 Guzman for Hector Rivera.

8 Your Honor, we have heard the Department of Labor.  
9 We have inconsistencies or very difference of opinion with  
10 the Department of Labor on the classification that the  
11 Department's issues on Hector Rivera as an employer.

12 The evidence is -- the Department of Labor has no  
13 evidence that Hector Rivera was the day-to-day cooperator of  
14 the Special Police Force Corporation. Hector Rivera is an  
15 investor. He is a shareholder. He invested with Mr. Eric  
16 Resto, who was a licensed detective, who was the Chief  
17 Executive Officer of the cooperation. His assistant was  
18 Jonathan Andujar, who is present in the court today.

19 His assistant, who also ran day-to-day operations,  
20 is not included --

21 THE COURT: Mr. Andujar is not a witness?

22 MR. B. GUZMAN-GUZMAN: No. He is a representative  
23 of the corporation today.

24 THE COURT: And he will not testify?

25 MR. B. GUZMAN-GUZMAN: He will testify.

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1 THE COURT: But he is a representative. Okay.

2 MR. B. GUZMAN-GUZMAN: And he is a representative.

3 THE COURT: What's his capacity?

4 MR. B. GUZMAN-GUZMAN: Actually --

5 MR. RODRIGUEZ-IZQUIERDO: Chief manager of the  
6 corporation.

7 MR. B. GUZMAN-GUZMAN: The corporation is --

8 MR. RODRIGUEZ-IZQUIERDO: I am sorry, Your Honor.  
9 I am sorry, Your Honor.

10 THE COURT: The question was to Mr. Guzman, if he  
11 is able to answer that.

12 MR. B. GUZMAN-GUZMAN: Yes, Your Honor.

13 The corporation right now is not operational, but  
14 he is the last CEO of the corporation, along with Eric Resto,  
15 before Eric Resto passed away.

16 THE COURT: Okay.

17 MR. B. GUZMAN-GUZMAN: So he is a representative of  
18 the corporation today.

19 THE COURT: Okay.

20 MR. B. GUZMAN-GUZMAN: Mr. Andujar is not a  
21 Defendant in this case, to my surprise, because he was there  
22 since the beginning.

23 Mr. Rivera met with Andujar and Eric Resto and  
24 formed the corporation. Mr. Rivera is an electrician who  
25 worked for PREPA in Puerto Rico, Puerto Rico Power Authority,

1 retired from PREPA and was looking for an investment. He did  
2 act directly or indirectly in the interest of the company as  
3 a shareholder.

4 He was not in control of the day-to-day operations,  
5 was not in control of the post, was not in control of the  
6 employees, did not establish any hours, and did not establish  
7 policy for the corporation. Again, Mr. Rivera was a  
8 shareholder.

9 When considering whether an individual is an  
10 employee within the meaning of the Federal Labor Standards  
11 Act, the First Circuit has followed the Supreme Court's lead  
12 in interpreting this definition person to an economic reality  
13 analysis. This means, reviewing the liability of corporate  
14 officers with a significant ownership/interest who had  
15 operational control of the significant aspects of the  
16 corporation's day-to-day functions, including compensation of  
17 employees, and who personally made decisions to continue  
18 operating despite financial adversities during the period of  
19 nonpayment.

20 That's on page 13 of document 125, with a partial  
21 judgment issued in this case.

22 That applies in this case strictly to Mr. Rivera.  
23 He was a shareholder who did not have control of the  
24 day-to-day operations. Day-to-day operations were handled by  
25 Eric Resto, by Andujar, and a series of supervisors who

1 supervised posts.

2 THE COURT: Mr. Arturo Guzman.

3 MR. A. GUZMAN-GUZMAN: Good morning. For the  
4 record, this is Arturo Guzman on behalf of Freddy De Jesus.

5 Your Honor, Freddy De Jesus, as a drop in this  
6 case, and he was just a supervisor of a company with no  
7 discretion over as to hire employees, to fire employees, no  
8 discretion for the salaries of the employees, neither the  
9 payroll.

10 It's our understanding that the Department of Labor  
11 will not be able to establish that Mr. Freddy De Jesus was an  
12 employee -- excuse me -- an employer as pursuant of section  
13 3(d) as alleged in the lawsuit.

14 As an employee, you got -- he was in charge of  
15 supervising the guard posts and for filling that void of  
16 supervision needed and required in order to keep the services  
17 that were being given to the clients. That means just went  
18 to the post, seeing that the guard was there, taking the  
19 signature of each guard at the time of post.

20 Besides that, no other function in the corporation  
21 from Mr. De Jesus is directed or will establish that he was  
22 an employer.

23 That would be all.

24 THE COURT: Thank you.

25 Ms. Jacobs, are you ready for the first witness?

1 MS. JACOBS: Yes, Your Honor. She is in the  
2 witness room.

3 THE COURT: Yes.

4 MR. GLICK: Your Honor, if I may approach to return  
5 my papers.

6 THE COURT: Yes.

7 MR. GLICK: Thank you very much.

8 Your Honor, Plaintiff calls as our first witness  
9 Ms. Gloriana Ortiz-Cruz, who will testify through an  
10 interpreter.

11 THE COURT: Yes.

12 MR. GLICK: May I pass a binder of the exhibits to  
13 the witness.

14 THE COURT: The only issue that I have with the  
15 whole binder -- I would rather do them individually, because  
16 some will be presented as an ID first, I am assuming, then  
17 have to be authenticated, or are they all stipulated?

18 MR. GLICK: Not all are stipulated, Your Honor.

19 THE COURT: Okay. Individually.

20 MR. GLICK: Understood, Your Honor.

21 I will pass the exhibits one at a time.

22 THE COURT: Yes.

23 MR. B. GUZMAN-GUZMAN: Attorney Benjamin Guzman,  
24 for the record.

25 THE COURT: Is this an issue with this particular

1 witness?

2 MR. B. GUZMAN-GUZMAN: Yes.

3 THE COURT: Please approach.

4 (Whereupon, the following proceedings were held at  
5 sidebar:)

6 THE COURT: Yes.

7 MR. B. GUZMAN-GUZMAN: It's not a substance issue,  
8 but when the employees were announced, when the witness were  
9 announced in document 134, Employees Witnesses, "The  
10 Secretary may call approximately 5-10 former employees to  
11 testify regarding their employment with Special Police Force.  
12 The scope of Mr. Rivera-Ortiz" --

13 THE COURT: Which page are you on?

14 MR. B. GUZMAN-GUZMAN: Page 13, No. 6, Employee  
15 Witnesses.

16 But since they did not disclose the names of the  
17 employees who are going to testify during the address, I  
18 would like to have the opportunity to ask my client who these  
19 employees are, because we never saw the employees, had their  
20 names.

21 THE COURT: How many employees are you presenting?

22 MR. GLICK: We are presenting one employee,  
23 Your Honor.

24 If I may add, we disclosed the name of Ms. Ortiz in  
25 approximately early to mid-December by email.

1 MR. B. GUZMAN-GUZMAN: No, this is not Emma Ortiz.

2 THE COURT: Gloriana Ortiz-Cruz.

3 MR. B. GUZMAN-GUZMAN: Ms. Emma Ortiz was deposed.

4 We know about Emma, and it's Ms. Emma Garcia, but we never  
5 received any notification of this witness.

6 THE COURT: Do you have the email?

7 MR. GLICK: If I may open my phone, Your Honor.

8 THE COURT: Yes.

9 Did you all receive an email?

10 MR. B. GUZMAN-GUZMAN: I do not recall.

11 THE COURT: This is not an issue of recalling. Did  
12 you, or did you not? It's simple.

13 MS. JACOBS: We also -- Mr. Glick turned over her  
14 statement to counsel I believe a few days ago.

15 MR. GLICK: Which is a document we do not plan to  
16 introduce as an exhibit.

17 Your Honor, may I show you my phone?

18 MR. A. GUZMAN-GUZMAN: We received the statement of  
19 the interview.

20 THE COURT: It's there.

21 MR. B. GUZMAN-GUZMAN: All right. We withdraw  
22 the --

23 THE COURT: Okay.

24 MR. B. GUZMAN-GUZMAN: It will take me less than a  
25 minute to ask my client.

1 THE COURT: You can do it now.

2 (Back on the record.)

3 THE COURT: Objection has been withdrawn.

4 Mr. Glick, you may start your direct.

5 We will take the oath.

6  
7 **GLORIANA ORTIZ-CRUZ,**

8 after having been first duly

9 sworn or affirmed upon oath, was examined

10 and testified as follows:

11  
12 **DIRECT EXAMINATION**

13 BY MR. GLICK:

14 Q Good morning, Ms. Ortiz.

15 A Good morning.

16 Q I would like to start by asking you, did you ever work  
17 at a company called Special Police Force?

18 A Yes.

19 Q When was that?

20 A 2000 -- 2006 to 2014.

21 Q What was your position at that company?

22 A At the beginning, at the Pine Grove Condominium, I  
23 started as a supervisor when they did the transition from one  
24 company to another.

25 Q After that time, did you have any other responsibilities

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1 at Special Police Force?

2 A Much later.

3 I was assigned installation of data entry and  
4 programs, and sometimes I was assigned personnel in the  
5 office for recruitment of personnel because the  
6 administration required us to do that.

7 Q Now, I would like to go back to ask you, how did you  
8 come to work at Special Police Force, in the first place?

9 A I worked for another company at the Pine Grove  
10 Condominium, and the administration decided to change the  
11 company that I worked for, and they informed us guards that  
12 they were going to be changing companies, and that several  
13 companies would be coming to submit quotes for them to decide  
14 as the administration. Among those companies was Special  
15 Police Force.

16 Q Do you know if Special Police Force, in fact, received  
17 that contract?

18 A I don't know because that's done by the administration,  
19 not us, the guards.

20 Q Who at the administration explained that to you?

21 A The president at the time, Mr. Roberto Bustillo.

22 MR. B. GUZMAN-GUZMAN: For the record, Attorney  
23 Benjamin Guzman.

24 I will ask -- would like to ask, who was the  
25 administration, whose administration, because it hasn't been

1 identified, and it's confusing. Is it Special Police Force,  
2 or is it the condominium administration?

3 MR. GLICK: I could ask that foundation,  
4 Your Honor.

5 THE COURT: Okay.

6 BY MR. GLICK:

7 Q Ms. Ortiz, are you explaining something about -- which  
8 administration were you just testifying about?

9 A The administration of the condominium, Pine Grove.

10 Q Did you later learn anything from the administration  
11 about who or what company would take over the security  
12 operations?

13 A Subsequently we were informed that there was going to be  
14 this change of companies, and that they had asked the company  
15 that they had selected --

16 MR. A. GUZMAN-GUZMAN: Objection, Your Honor.  
17 Hearsay.

18 THE COURT: And your name?

19 MR. A. GUZMAN-GUZMAN: For the record, this is  
20 Attorney Arturo Guzman. I am sorry. I am very sorry because  
21 I didn't follow the rules.

22 We object because of hearsay.

23 THE COURT: Mr. Glick.

24 MR. GLICK: Your Honor, I believe the witness was  
25 testifying about something told to her.

1 I can ask a different question.

2 THE COURT: Okay.

3 Objection is sustained.

4 Please rephrase.

5 The answer is stricken.

6 MR. GLICK: If I could ask, if it's possible for  
7 the witness to finish the answer so we could sometimes hear  
8 the --

9 THE COURT: No, because I upheld the objection.

10 BY MR. GLICK:

11 Q Did you attend any meetings with the administration of  
12 the condominium?

13 MR. A. GUZMAN-GUZMAN: For the record, this is  
14 Attorney Arturo Guzman on behalf of Freddy De Jesus.

15 We understand that the attorney is leading the  
16 witness.

17 THE COURT: Overruled.

18 "Did she attend any," that's not leading.

19 You may answer?

20 THE WITNESS: When they informed us about the  
21 change, the administration of the Pine Grove Condominium  
22 informed us that the companies were going to change and that  
23 some of us who formed part of the group who worked for the  
24 previous company were going to remain. We had been selected  
25 to stay. Among those people was I.

1 BY MR. GLICK:

2 Q Who was at that meeting with the administration of the  
3 condominium?

4 A Well, the first time that they informed us, it was not  
5 really in the form of a meeting, but upon exiting,  
6 Mr. Bustillo informed us, and that subsequently the Special  
7 Police Force company would be coming with the required  
8 documentation for us to begin working with them.

9 Q Did you attend any meetings with the administration  
10 after that?

11 A The administration arrived, came to the office and  
12 delivered to us in the presence of Mr. Andujar, and  
13 Mr. Andujar gave us the job application, the documents  
14 required for us to start working with them, which was the job  
15 application. And then they asked us to bring in -- they told  
16 us we had to bring in a certificate of good conduct, a  
17 picture ID, Social Security, and if we had a resume, to  
18 present it for the file.

19 Q Was anyone else at that meeting?

20 A Not at that meeting, no, but subsequently we met  
21 Mr. Hector Rivera.

22 Q When did you meet Mr. Hector Rivera?

23 A Several days later, when he came and introduced himself  
24 as the owner of Special Police Force company, and he had a  
25 meeting with the administration. On that occasion,

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1 Mr. Jonathan Andujar was also with him.

2 Q Where was that meeting?

3 A The condominium's administration office.

4 Q What, if anything else, did Mr. Rivera explain at that  
5 meeting?

6 A Could you repeat?

7 Q Yes.

8 What, if anything else, did Mr. Rivera explain at  
9 that meeting?

10 A Are you asking about me, as to me?

11 Q Did you hear Mr. Rivera explain anything else at that  
12 meeting?

13 MR. B. GUZMAN-GUZMAN: Objection, Your Honor. The  
14 witness testified --

15 THE COURT: Your name, and then you give me the  
16 objection.

17 MR. B. GUZMAN-GUZMAN: Benjamin Guzman on behalf of  
18 Hector Rivera.

19 The objection is regarding the witness testified  
20 that she saw Hector come by and he was going to a meeting  
21 with Andujar and the administration of the condominium. She  
22 did not testify that she took part in that meeting.

23 THE COURT: The question was whether she heard  
24 Mr. Rivera saying anything else. So it's not comprised to a  
25 meeting. That's how I understood the question.

1 MR. B. GUZMAN-GUZMAN: Okay.

2 THE COURT: Correct?

3 MR. GLICK: I can certainly ask that question, if I  
4 didn't.

5 BY MR. GLICK:

6 Q Did you hear Mr. Rivera explain anything else that day?

7 A No.

8 Q Now, I would like to talk to you more about your job  
9 duties when you worked for Special Police Force. So, first  
10 regarding your work at Pine Grove itself, once Special Police  
11 Force took over, what were your responsibilities?

12 A Repeat the question.

13 Q At Pine Grove specifically, what responsibilities did  
14 you have when you worked for Special Police Force?

15 A I was in charge of the security booth, in charge of the  
16 guards through the company. I did the rosters, passed them  
17 on for approval to the director of operations, and we entered  
18 and took out data when a resident moved in or out. We would  
19 ask for documents when required because we had ran out. And  
20 all extraordinary responsibilities in extraordinary cases, as  
21 they can arise, I would call the directors of operations.

22 Q Who were the directors of operations or director of  
23 operations?

24 A At the beginning it was Mr. Jonathan Andujar, and  
25 subsequently it was Mr. Freddy De Jesus.

1 Q What do you mean by any kind of extraordinary  
2 circumstances or extraordinary responsibilities?

3 A Well, if the administration of Pine Grove was not  
4 pleased with any type of situation pertaining to the guards,  
5 or any situation that came up in the area of security that  
6 they were not pleased with and needed to be improved, well,  
7 then, the administration would come to me because I was in  
8 charge of the security booth. I would do the report and  
9 contact the director of operations and would inform him of  
10 what was happening.

11 Q And at that time, who was the director of operations?

12 A At the beginning, it was Mr. Jonathan Andujar and,  
13 subsequently, Mr. Freddy De Jesus.

14 Q Could you give us an example of some kind of  
15 extraordinary circumstance when you wrote a report, as you  
16 just described.

17 A I remember one that was the one that gave us quite a lot  
18 of work. It was a breaking and entering in the condominium,  
19 and we had to maintain communications at all times. At the  
20 time the director of operations was Mr. Freddy De Jesus. He  
21 was kept informed of everything at all times.

22 The administration decided to file charges against  
23 the two people who broke and entered into the condominium.  
24 And I had to attend court proceedings on behalf of Special  
25 Police Force to represent them in the proceedings.

1 Q I just want to make sure I understand. There was some  
2 kind of crime committed; is that right?

3 A In the Pine Grove Condominium, yes.

4 Q Did you have a role in reporting that to someone?

5 A Yes.

6 MR. A. GUZMAN-GUZMAN: For the record, Attorney  
7 Arturo Guzman on behalf of Freddy De Jesus.

8 I believe that the question was already asked and  
9 answered.

10 THE COURT: Overruled.

11 Go ahead.

12 BY MR. GLICK:

13 Q Did you have a role in reporting that incident to  
14 someone?

15 A Yes.

16 Q To whom did you report that incident?

17 A As soon as that situation occurred, I contacted the  
18 president, the administration, and quickly the director of  
19 operations of the company.

20 Q Which director of operations was that?

21 A At the time Mr. Freddy De Jesus.

22 Q Why did you report this to the director of operations  
23 Freddy De Jesus?

24 A Because I worked for the Special Police Force company.  
25 I had to make all the necessary efforts, take all the

1 necessary steps with regard to the situation and go through  
2 the entire police process and contact administration, the  
3 president, and supervisor on duty, the director of  
4 operations. So I have to inform the company that I work for.

5 Q During the times you worked at Pine Grove, did you ever  
6 contact Mr. Hector Rivera directly about anything?

7 A Yes.

8 Q Can you give us an example of that.

9 A Yes. When the administration told us that during the  
10 transition they had requested a security camera system,  
11 installation of signs, the one in charge of doing such work  
12 was Mr. Hector Rivera, and I would follow up on this as per  
13 the request of the administration of Pine Grove.

14 Q Could you explain what the installations of signs  
15 involved.

16 A Yes. The installation of signs was a small sign  
17 indicating that the area was under camera surveillance.

18 Q Were there surveillance cameras at Pine Grove?

19 A In different areas.

20 Q Who maintained those security cameras?

21 A That was decided by administration.

22 Q Were there any -- ever any problems with the security  
23 cameras at Pine Grove?

24 A There were some problems where the system would fail.

25 Q When those problems happened, who was involved in fixing

1 them?

2 A Well, that was decided by the administration. Because  
3 after the cameras were installed, the installation of some  
4 cameras, once the company came in, if I am not mistaken, it  
5 was four or five cameras, then the administration would  
6 decide, after receiving quotes, which company they were going  
7 to assign the maintenance of the cameras to.

8 Q When you worked at Pine Grove, did you any role in  
9 dealing with the security cameras?

10 A Yes.

11 Q What was your role?

12 A To monitor them and to make sure they were up working,  
13 and also make sure it had surveillance of the back and the  
14 front areas through the cameras. And then whenever a visitor  
15 license plate was going to be registered, to register that,  
16 or also residents without beepers.

17 Q Did you ever see anyone repair the security cameras when  
18 you worked there?

19 A Yes.

20 Q Who did you see repair security cameras?

21 A Several people.

22 Q Who did that include?

23 A There were several companies that the administration had  
24 decided were going to be checking the cameras. And most of  
25 the time there was a maintenance employee who was taught to

1 deal with them. And after that, the cameras continued to  
2 give problems. And that's when I was told to call Hector  
3 Rivera to explain to him what was happening.

4 Q Did you ever call Hector Rivera to say anything about  
5 the security cameras at Pine Grove?

6 MR. B. GUZMAN-GUZMAN: Objection to the  
7 translation. The question was, "Did you ever call," and the  
8 interpreter interpreted, "Did you communicate." A  
9 communication call and communication is different.

10 THE COURT: Okay.

11 For the record, that was Benjamin Guzman.

12 THE WITNESS: Yes.

13 BY MR. GLICK:

14 Q How often?

15 A It was not that often.

16 Q Why was it that you called Hector Rivera about the  
17 cameras instead of someone else?

18 A Because the cameras that Mr. Hector Rivera was called  
19 about were the cameras that he had installed.

20 Q That was at Pine Grove?

21 A Yes.

22 Q Now, I would like to go back and ask you about some of  
23 the other responsibilities you mentioned during your work at  
24 Special Police Force.

25 The recruiting of personnel that you had mentioned

1 before, what did that involve?

2 A Okay. Well, when Special Police Force started at the  
3 Pine Grove Condominium, the administration of the Pine Grove  
4 Condominium told us that they wanted to remove any persons  
5 who were not going to be remaining with the Special Police  
6 Force company. And so at the time it was decided, because I  
7 have been working at that condominium for so long, the vice  
8 president of the condominium, Attorney Maria Elisa Santiago,  
9 told me to contact the Special Police Force company, at all  
10 times Mr. Hector Rivera, and inform him of the concern that  
11 they wanted the personnel to be recruited through me for the  
12 Pine Grove Condominium.

13 After I contacted Mr. Hector Rivera, I was told  
14 there was no problem at all, and that personnel will be  
15 coordinated to then go forward with the recruitment.

16 Q Did you then have any recruitment responsibilities or  
17 roles with Special Police Force?

18 A I would interview the person. After interviewing the  
19 person, I would meet with the director of operations, and I  
20 would let him know whether the person qualified or not. But  
21 the decision was made by the director of operations.

22 Q Which director of operations was that?

23 A At the time Mr. Freddy De Jesus.

24 Q Did Mr. Hector Rivera have any role in that recruitment  
25 that you were involved in?

1 A At the time I contacted Mr. Hector Rivera, which is what  
2 I mentioned earlier, Hector Rivera told me, "Contact Freddy  
3 De Jesus." And that's what I did.

4 Q The interviews that you mentioned, where did those take  
5 place?

6 A At the offices of Special Police Force.

7 Q Where were those offices?

8 A On Martinez Nadal Avenue.

9 Q During the time that you had that role with the  
10 interviews, about how often did you go to those offices?

11 A About three or four times.

12 Q I just want to make sure I understand. Was it three or  
13 four times ever?

14 A Yes, for purposes of the recruitment process.

15 Q During what period of time was that, approximately?

16 A That was for an average of time of about a month, month  
17 and a half. At the most, two months. Because we had to make  
18 sure that the personnel selected was the proper or  
19 appropriate personnel for the administration of the  
20 condominium to be satisfied with the services.

21 Q For the people that were hired, do you know who assigned  
22 them to a post?

23 A Well, again, I will repeat that for the Pine Grove  
24 Condominium, recruitment was for the Pine Grove Condominium,  
25 and I will explain. There were some open shifts, and those

1 were the open shifts that had to be covered at the Pine Grove  
2 Condominium.

3 Q During the times that you went to the offices of Special  
4 Police Force, who else was at the office?

5 A Mr. Freddy De Jesus; the secretary, if I am not mistaken  
6 her name was Franchesca; sometimes Mr. Hector Rivera would  
7 come in and out. And there was another gentleman whose name  
8 I can't remember, but he was the company's accountant, and  
9 also sometimes there were field supervisors. And, obviously,  
10 the people summoned for interviews with me.

11 Q During the times that you saw Hector Rivera at those  
12 offices, what time of day was that?

13 A I could see Mr. Hector Rivera at any time of day after I  
14 got out of work at the Pine Grove Condominium because he is  
15 the owner of the company.

16 Q You were just testifying about -- would you see him at  
17 Pine Grove or the offices or somewhere else?

18 A Outside of Pine Grove.

19 Q Did you sometimes see him at Special Police Force  
20 offices?

21 A Sometimes.

22 Q Now, I believe you mentioned some kind of data system  
23 where the addresses or other information of the building  
24 residents was entered. Do I understand that correctly?

25 A Yes.

1 Q Did someone teach you to use that system?

2 A Yes.

3 Q Who was that?

4 A The company's programmer.

5 Q Was anyone else involved in teaching you how to use that  
6 system?

7 A Not as far as I can remember.

8 MR. B. GUZMAN-GUZMAN: Objection. Attorney  
9 Benjamin Guzman, for the record.

10 THE COURT: It's late, the objection. She already  
11 answered.

12 Next question.

13 BY MR. GLICK:

14 Q Do you know who taught that person how to use the data  
15 entry system?

16 MR. B. GUZMAN-GUZMAN: Objection. Benjamin Guzman,  
17 for the record. We would like to -- counsel to offer what's  
18 the pertinence of this line of questioning. I don't believe  
19 she is talking about Special Police Force. I believe she is  
20 talking about the names and address of the people -- the  
21 residents of the condominium. That's not pertinent to  
22 Special Police Force.

23 THE COURT: She is talking about a company  
24 programmer who taught her to use the system. That's all I  
25 know.

1 MR. B. GUZMAN-GUZMAN: No. But before, she -- the  
2 witness testified that she would write down in the system the  
3 names and addresses of the residents of Pine Grove. I would  
4 like to have that pertinent to Special Police Force business.

5 MR. GLICK: I am happy to lay further foundation or  
6 see if the witness has such information.

7 THE COURT: Go ahead, please.

8 BY MR. GLICK:

9 Q Could you remind me, what was the title of the person  
10 who taught you how to use that computer system?

11 A The programmer.

12 Q Do you know what company the programmer worked for?

13 A No.

14 Q Do you know who taught the programmer about that data  
15 system?

16 MR. A. GUZMAN-GUZMAN: Your Honor, this is Arturo  
17 Guzman, for the record. We have an objection. Since she  
18 doesn't know who the programmer was --

19 THE COURT: No. She doesn't know for which company  
20 he worked for. The question was, whether she knows who  
21 taught him to use the program.

22 MR. A. GUZMAN-GUZMAN: Who taught him, but she  
23 doesn't know who he is.

24 THE COURT: She knows who he is. She doesn't know  
25 for what company he works for, and the question is if she

1 knows who taught him.

2 I will allow it, if she has personal knowledge.

3 THE WITNESS: No.

4 BY MR. GLICK:

5 Q Where were you when you learned how to use that computer  
6 system?

7 A The first time I went to the office.

8 Q Which office was that?

9 A Special Police Force's office.

10 Q Did you learn how to use the computer system for the  
11 first time in Special Police Force's office?

12 A Yes.

13 Q And after that, did you have further training on the  
14 computer system?

15 MR. A. GUZMAN-GUZMAN: Objection, Your Honor.

16 For the record, this is Arturo Guzman.

17 The question is misleading. She didn't said that  
18 she received any training.

19 THE COURT: "The use of the program." Let's  
20 rephrase and not use the word "training." Let's use "use of  
21 the program."

22 MR. GLICK: Understood, Your Honor.

23 BY MR. GLICK:

24 Q After that time in Special Police Force's office, did  
25 anyone teach you anything else about how to use that data or

1 program?

2 A On the day I was given the training, since this was  
3 really not complicated, I literally learned everything about  
4 it. This programmer put the program on a pen drive for me.  
5 And then after I completed the training and I was given this  
6 data entry system program, I contacted Hector Rivera. And I  
7 told him that I had learned quite a lot about this data entry  
8 program to enter or install information of residents and  
9 visitors. And then he told me later that we were going to be  
10 working with the installation of visitor and resident data,  
11 and that he would be informing me when administrations, who  
12 were going to be using that program, gave him the information  
13 for me to work with.

14 Q And that person you were just describing, who was that?

15 A My boss, Mr. Hector Rivera.

16 Q During the time that you worked for Special Police Force  
17 at Pine Grove, how did you record your hours, if at all?

18 A With a payroll sheet.

19 MR. GLICK: Your Honor, at this time I would like  
20 to show the witness an exhibit, which I believe has been  
21 admitted -- counsel has stipulated is in evidence, Exhibit 3,  
22 along with the translation that I described to the Court  
23 earlier this morning.

24 THE COURT: No objection as to Exhibit 3 from  
25 counsel for Defendants?

1 MR. A. GUZMAN-GUZMAN: This is Arturo Guzman. On  
2 behalf of Freddy De Jesus, no objection.

3 MR. RODRIGUEZ-IZQUIERDO: Speaking on behalf of  
4 SPF, Your Honor, Ismael Rodriguez. No objection to the  
5 document.

6 THE COURT: Okay. So admitted as Exhibit 3 with  
7 the translation.

8 MR. GLICK: May I approach with the translation  
9 page?

10 THE COURT: Yes. And let's get the...

11 MR. GLICK: May I pass to the Court this exhibit --  
12 translation page.

13 THE COURT: Okay. You can put it with the  
14 original.

15 MR. GLICK: Okay.

16 THE COURT: And then they will both be clipped  
17 together as Exhibit 3.

18 MR. GLICK: Understood. I just didn't know if the  
19 Court wanted a copy for its --

20 THE COURT: No. Not for now. Thank you.

21 BY MR. GLICK:

22 Q Ms. Ortiz, I am showing you what has been admitted in  
23 evidence as Exhibit 3.

24 Do you recognize this document, Exhibit 3?

25 THE COURT: Mr. Glick, for the benefit of all

1 present, we can use the projector, or the Elmo, and the  
2 witness can see it from there, and I can see it as well.

3 MR. GLICK: I apologize, Your Honor.

4 THE COURT: Do you understand how to use it?

5 MR. GLICK: I have not used it before.

6 BY MR. GLICK:

7 Q Ms. Ortiz, do you recognize this document, Exhibit 3?

8 A Yes.

9 Q Is this the kind of sheet that you used to record your  
10 hours when you worked in Pine Grove?

11 A This sheet was the one that was submitted along with the  
12 tally of hours, because there was also a payroll sheet, an  
13 individual payroll sheet for each employee that was used.

14 Q What information do you record on that payroll sheet?

15 A On the one for Pine Grove, you would enter the name, the  
16 start time, the break time, the exit time or end time, and  
17 signature. And you would identify it with the letters C or  
18 R. At least in my condominium, we would use C for the  
19 Spanish word *caseta*, the guard booth, because there were no  
20 rounds.

21 Q Other than the information you just mentioned, did you  
22 record any other information on those sheets that you would  
23 turn in?

24 A For the Pine Grove Condominium, no.

25 Q And you were just telling about -- testifying about "for

1 Pine Grove." Was that for the time that you worked for the  
2 company Special Police Force at the location Pine Grove?

3 A Repeat the question.

4 Q When you explained that the timekeeping was for Pine  
5 Grove, was that during the time you worked for Special Police  
6 Force at the Pine Grove location?

7 A The payroll sheet, yes.

8 Q Now, I would like to ask, when did you stop working for  
9 Special Police Force?

10 A 2014.

11 Q Why did you stop working there?

12 A Because I found a job opportunity in the field I  
13 studied.

14 Q Did you inform Special Police Force that you were  
15 leaving?

16 A I contacted Mr. Hector Rivera and explained to him that  
17 Attorney Maria Elisa Santiago had offered me a job position  
18 in administration, and that I was going to accept it.

19 Q Why was Mr. Hector Rivera the person that you  
20 communicated that to?

21 A Because he is the owner of the company and the boss.

22 MR. A. GUZMAN-GUZMAN: Your Honor, objection as to  
23 the characterization.

24 THE COURT: Overruled.

25 MR. GLICK: Your Honor, I have no further questions

1 at this time.

2 THE COURT: Okay. Let's take a five-minute break,  
3 and then we will resume with the cross-examination.

4 Ma'am, you remain under oath during the break. It  
5 will be five to ten minutes. Please do not discuss your  
6 testimony with anyone during the break.

7  
8 (PROCEEDINGS SUSPENDED AT 10:15 A.M.)

9 (PROCEEDINGS RESUMED AT 10:45 A.M.)

10  
11 THE COURT: You may be seated.

12 Cross.

13 MR. B. GUZMAN-GUZMAN: For the record, Attorney  
14 Benjamin Guzman on behalf of Hector Rivera.

15 **CROSS-EXAMINATION**

16 BY MR. B. GUZMAN-GUZMAN:

17 Q Ms. Ortiz, good morning.

18 A Good morning.

19 Q Mr. Hector Rivera has been included in this complaint in  
20 his personal capacity in an allegation --

21 MR. GLICK: Objection, Your Honor.

22 THE COURT: Please approach.

23 (Whereupon, the following proceedings were held at  
24 sidebar:)

25 THE COURT: I will not allow --

1 MR. B. GUZMAN-GUZMAN: The introduction --

2 THE COURT: Hold on.

3 -- the coaching a witness. I will not allow it.

4 Get to the question. It has no bearing, and it is totally  
5 irrelevant in what capacity he is or he is not.

6 MR. B. GUZMAN-GUZMAN: Okay.

7 (Back on the record.)

8 THE COURT: The previous statements by Attorney  
9 Guzman are stricken from the record.

10 MR. B. GUZMAN-GUZMAN: Permission to continue,  
11 Your Honor.

12 THE COURT: Yes.

13 MR. B. GUZMAN-GUZMAN: Attorney Benjamin Guzman for  
14 the record.

15 BY MR. B. GUZMAN-GUZMAN:

16 Q Ms. Ortiz, you testified that you began working in what  
17 year?

18 A For Pine Grove Condominium in 2004, more or less.

19 Q Do you remember when you started working for Special  
20 Police?

21 A Special Police Force did their transition in 2006 or  
22 2007, as I testified earlier. If I recall correctly, it was  
23 between 2006 or 2009.

24 Q I am confused about the last part of your answer. Is it  
25 2007 or 2009?

1 A I don't recall.

2 Q If I were to show you a Certificate of Incorporation for  
3 Special Police Force, would it be correct if the same was  
4 filed in 2009?

5 MR. GLICK: Objection.

6 THE COURT: Sustained.

7 BY MR. B. GUZMAN-GUZMAN:

8 Q Do you know when Special Police Force began operations?

9 A I don't recall.

10 Q You do recall that around 2009, Special Police Force  
11 started operating the security part of condominium Pine  
12 Grove; correct?

13 A As I stated earlier, I had worked in Pine Grove  
14 Condominium since 2004. It's not entirely clear to me. I  
15 don't recall exactly when the transition took place, whether  
16 it was 2007 to 2009.

17 Q One last question in that regard. About how many years  
18 were you employed -- you had been employed by Pine Grove  
19 before you started working for Special Police?

20 A I don't recall a specific date, but I had been there  
21 quite a while.

22 Q Would it be correct to say it was more than five years  
23 or less than five years?

24 A I can't answer that because I don't recall what date  
25 more or less or how much time.

1 Q Would it be fair to say that you had -- that the -- I am  
2 sorry. I am going to rephrase that.

3 Would it be fair to say that the administration had  
4 a lot of confidence in you?

5 THE COURT: Which administration?

6 You were asked to clarify that before.

7 BY MR. B. GUZMAN-GUZMAN:

8 Q The Pine Grove administration.

9 A What do you mean by trust?

10 Q By confidence I mean in a sense that they trust you to  
11 make decisions on their behalf and they accepted your  
12 recommendations.

13 MR. GLICK: Objection.

14 THE COURT: Sustained.

15 MR. B. GUZMAN-GUZMAN: I am going to rephrase it,  
16 Your Honor.

17 BY MR. B. GUZMAN-GUZMAN:

18 Q Trust that they will accept your recommendations.

19 A Would you please repeat the question.

20 Q Trust that they will accept your recommendations in  
21 terms of security or security issues in the condominium.

22 A Trust is not the correct word. They would consult me  
23 regarding any type of situation involving security, and I  
24 would give them my opinion, but it was their decision.

25 Q Let me ask you another question. What's your academic

1 preparation?

2 A I studied business administration, and I took courses in  
3 invoicing, and security and protection.

4 Q Specifically, do you have any specific degrees in those  
5 areas?

6 A Yes.

7 Q What are the degrees that you have?

8 A I have an associate's degree and a bachelor's, and the  
9 security and protection courses are certified upon  
10 completion.

11 Q Did the Pine Grove administration consult you in  
12 administrative issues?

13 A No.

14 Q Who approached you -- we are going to the time where a  
15 transition was made to Special Police Force. Who asked you  
16 to recruit personnel for the openings that were available for  
17 the posts?

18 MR. GLICK: I heard two questions without a  
19 response.

20 THE COURT: "Who asked you to recruit" was the  
21 question.

22 You may answer.

23 THE WITNESS: Please repeat the question.

24 BY MR. B. GUZMAN-GUZMAN:

25 Q Who asked you to recruit personnel for the available

1 posts at Pine Grove?

2 A (No interpretation of the answer was allowed by Defense  
3 Counsel.)

4 Q Which criteria --

5 THE COURT: Please wait.

6 MR. B. GUZMAN-GUZMAN: I am sorry.

7 THE WITNESS: A little earlier I testified that  
8 this attorney, Maria Elisa Santiago, asked me to notify  
9 Mr. Hector Rivera what they were thinking about, and I told  
10 him that, to tell Hector Rivera that the personnel for  
11 Special Police Force, who were coming to Pine Grove, I should  
12 interview them so that then the condominium could feel  
13 satisfied with that.

14 BY MR. B. GUZMAN-GUZMAN:

15 Q From your answer, does Ms. Santiago, from the  
16 administration of Pine Grove, establish the criteria for  
17 which employees to hire?

18 A She was the vice president of Pine Grove Condominium.

19 MR. B. GUZMAN-GUZMAN: I will ask the witness to be  
20 responsive. The question was very specific.

21 THE COURT: I agree.

22 Please answer the question.

23 The question was, did Ms. Santiago establish the  
24 criteria of which employees to hire for Pine Grove?

25 THE WITNESS: When Ms. Maria Elisa Santiago decided

1 to assume the position of president, decided that -- that  
2 determined the controlled access that was decided by the  
3 board, which is president, vice president.

4 THE COURT: Okay. Let's get a translation, but the  
5 answer was nonresponsive.

6 THE WITNESS: Well, when she became president, in  
7 that process, and when the board changed, which changes on a  
8 yearly basis, and then we -- when I say "we," I am referring  
9 to Special Police Force -- through me, were going to be  
10 recruiting the guards for Pine Grove because there had been  
11 some problems with operational situations.

12 THE COURT: Ma'am, you are now on  
13 cross-examination. Mr. Guzman has a right to make questions  
14 which may require, for example, yes or no, and no explanation  
15 after that, because Mr. Glick will have a chance later on  
16 redirect to clarify.

17 The answer you just provided did not respond to the  
18 question. The question was whether Ms. Santiago established  
19 the criteria of which employees to hire for Pine Grove.  
20 Please answer that question.

21 THE WITNESS: Yes.

22 BY MR. B. GUZMAN-GUZMAN:

23 Q When the transition was made from the previous security  
24 company to Special Police Force at Pine Grove, Mr. Andujar  
25 was the one who showed up to a meeting.

1 A Yes.

2 Q He was the one who made the first contact; correct?

3 A Yes.

4 Q After the company was hired, it was that you first saw  
5 Hector Rivera; correct?

6 A Yes.

7 Q Will it be fair to say that Security Police Force did  
8 not recruit you?

9 MR. GLICK: Objection.

10 THE COURT: Overruled.

11 MR. GLICK: Your Honor, may I? The name of the  
12 company that --

13 THE COURT: Special Police Force. Mr. Guzman  
14 provided another name.

15 MR. B. GUZMAN-GUZMAN: I am sorry, Your Honor.

16 BY MR. B. GUZMAN-GUZMAN:

17 Q I am sorry, Ms. Ortiz. I meant, would it be fair to say  
18 that Special Police Force did not recruit you?

19 A No, that would not be correct because they did recruit  
20 me.

21 Q In your first statement you told us that you were  
22 already working at that post.

23 A I worked for the previous company. And when the  
24 transition took place, Mr. Andujar is the one who brought in  
25 the applications, which included the good conduct

1 certificate, Social Security, and driver's license.

2 Q Ms. Ortiz, you testified previously that the  
3 administration informed you that there was going to be a  
4 change in company; is that correct?

5 A I testified earlier that the Pine Grove Condominium  
6 informed us that there was going to be a change in company  
7 and that they had decided to keep a number of employees who  
8 had been chosen. And I was one of the chosen ones.

9 Q If you were to say who recruited you, who would that be?

10 A At the time that we were given the application, it was  
11 Mr. Andujar who handed them out.

12 Q Mr. Andujar was the decision-maker -- I am going to  
13 rephrase.

14 Mr. Andujar was the person who made the decision  
15 that you stay at that post for Special Police; correct?

16 A No, because when the condominium administration met to  
17 request the change in company, they requested that a group of  
18 us remain, and the board said that a group of us would be  
19 remaining after the change.

20 MR. B. GUZMAN-GUZMAN: The witness was not  
21 responsive. I asked her if Mr. Andujar was the person who  
22 decided that she stays in that post. Is that correct, yes or  
23 no?

24 THE COURT: Give me a second.

25 And she answered, no, and then she gave an

1 explanation.

2 MR. B. GUZMAN-GUZMAN: Okay.

3 THE COURT: So the question was answered.

4 MR. B. GUZMAN-GUZMAN: Permission to continue.

5 THE COURT: Yes.

6 BY MR. B. GUZMAN-GUZMAN:

7 Q Mr. Hector Rivera did not assign you to that post  
8 whatsoever.

9 A When we made the transition, I was already working  
10 there.

11 Q I am going to interrupt. The answer is yes or no.

12 Mr. Hector Rivera positioned you at that post at  
13 any time.

14 A I don't know because when the transition took place, I  
15 didn't know Hector Rivera. The one who I knew was  
16 Mr. Andujar, when I saw him.

17 Q You previously answered that the Pine Grove  
18 administration did not consult you on any administrative  
19 matters.

20 MR. GLICK: Objection to the characterization of  
21 the testimony.

22 THE COURT: Pardon?

23 MR. GLICK: I don't agree that that was the  
24 witness' exact testimony.

25 THE COURT: Okay. Please rephrase.

1 BY MR. B. GUZMAN-GUZMAN:

2 Q Pine Grove administration did not consult you in their  
3 administrative matters.

4 A No, they did not.

5 Q Then you did not have any personal knowledge of what was  
6 included in the contract between Pine Grove administration  
7 and Special Police Force.

8 A Not until that point.

9 Q I ask you if you have any personal knowledge whether the  
10 installation of cameras, security cameras, were a part of the  
11 Special Police Force contract with Pine Grove afterwards?

12 A I was told that Mr. Hector Rivera was going to be coming  
13 by to present a quote for some cameras and their installation  
14 because -- that was not at the time that the transition was  
15 taking place. That was afterwards, after we were already  
16 working with Special Police Force, for us to be on the  
17 lookout as to whether the monitor that there was, whether it  
18 was working, whether it had the capability, and to show them  
19 the area where the previous cameras had been installed for a  
20 long time.

21 Q I am going to ask you again because I got confused with  
22 your answer in various parts.

23 My question -- my first question is, did you have  
24 personal knowledge if the camera system was included in the  
25 deal for -- the security deal with Special Police Force?

1 A (No translation because Defense Counsel did not allow  
2 it.)

3 Q My question is yes or no.

4 A At the time of the recruitment when the transition took  
5 place, no.

6 THE COURT: Mr. Guzman, when you pose a question  
7 that you want a yes or no, please pose the question as such.

8 MR. B. GUZMAN-GUZMAN: Sorry, Your Honor.

9 BY MR. B. GUZMAN-GUZMAN:

10 Q I am going to ask you a simple question. Did you have  
11 personal knowledge if the camera system was included in the  
12 security contract that Special Police Force held with Pine  
13 Grove Condominium; yes or no?

14 A No.

15 Q After the transition took place --

16 A We were informed --

17 THE COURT: Excuse me.

18 What's the question?

19 BY MR. B. GUZMAN-GUZMAN:

20 Q What's your knowledge about the cameras after the  
21 transition?

22 A We were told that they were going to install new cameras  
23 to check the ones that were out of order, and that some other  
24 personnel, Mr. Hector Rivera in this case, was going to come  
25 by to check and to present a quote, and I should grant him

1 access to the monitors and the cameras and to show him where  
2 things were.

3 THE COURT: Excuse me, counsel. I do not allow  
4 someone in the public to interrupt the proceedings and tell  
5 you something. That's basic court ^. Okay?

6 MR. B. GUZMAN-GUZMAN: Sorry, Your Honor. That was  
7 my represented party. I needed some clarification. It will  
8 not happen again.

9 BY MR. B. GUZMAN-GUZMAN:

10 Q Ms. Ortiz, did you ever see any quote for the camera  
11 installations?

12 A No.

13 Q Did you ever have personal knowledge of a quote for the  
14 camera installations?

15 A That was left in an envelope, in a sealed envelope in  
16 the guard booth.

17 Q You did not know what was in the envelopes; correct?

18 A No.

19 Q The job duties at the beginning of your relation with  
20 Special Police was strictly to be a guard, a security guard  
21 at a post; correct?

22 MR. GLICK: I object to the characterization of the  
23 testimony.

24 THE COURT: Sustained.

25 That's not what she testified before.

1 BY MR. B. GUZMAN-GUZMAN:

2 Q When you were working at the post, you had a director of  
3 operations; yes or no?

4 A Yes.

5 Q That director of operations was Andujar; yes or no?

6 A At the beginning, yes.

7 Q That director of operations was never Hector Rivera;  
8 correct?

9 A I always knew him to be the owner of the company.

10 Q My question is director of operations to which you  
11 report.

12 A I reported to the operations director Andujar. That was  
13 at the beginning. And then afterwards, I reported to  
14 Mr. Freddy De Jesus.

15 Q I am not clear. Would you please clarify. If at any  
16 time you became a supervisor yourself for Special Police.

17 A For the Pine Grove Condominium.

18 Q In that duty at Pine Grove Condominium, who set the  
19 hours for the guards?

20 A The schedules had been set since forever. It was three  
21 shifts.

22 Q Who recruited -- no. I am sorry. Let me rephrase.

23 Who made the decision whom will be at that  
24 particular post at any of the shifts?

25 A Please repeat the question.

1 Q Who made the decision as to what guard will be at a Pine  
2 Grove post in any of those three shifts?

3 A When an open slot was covered, whatever shift was open  
4 would be covered, whether it was from 2:00 to 10:00, 5:00 to  
5 1:00.

6 Q My question is --

7 THE COURT: The answer was nonresponsive.

8 BY MR. B. GUZMAN-GUZMAN:

9 Q -- with regard to the -- who sent the guard to that  
10 particular -- who assigned the posts?

11 MR. GLICK: Objection to the form.

12 MR. B. GUZMAN-GUZMAN: I am sorry.

13 BY MR. B. GUZMAN-GUZMAN:

14 Q Who assigned a specific guard to a specific post in Pine  
15 Grove?

16 A I did, as the supervisor. Afterwards, I would consult  
17 with the director of operations and inform him, this open  
18 occurred, this guard can cover, this other one can't.

19 Q Ms. Ortiz, you testified previously about entering a  
20 criminal incident in the condominium. Now I ask you, if  
21 there was a problem with the security guard, you were the one  
22 who dealt with that particular security guard; yes or no?

23 A When I make reference to the incident --

24 Q No, no, no. Different from that incident, if there is a  
25 problem with a security guard from Special Police at Pine

1 Grove, you were the one who dealt with that problem; correct?

2 A I would make the report, and the information would be  
3 forwarded to the operations director. And the decision was  
4 taken by the director, not by me. What I did was present the  
5 situation that had been presented to me by the administration  
6 and/or the board of directors.

7 Q Mr. Hector Rivera was not involved in any discipline --  
8 was not involved in the application of discipline measures to  
9 security guards; correct?

10 MR. GLICK: Objection.

11 THE COURT: Sustained.

12 Don't answer.

13 BY MR. B. GUZMAN-GUZMAN:

14 Q Did you ever see Mr. Hector Rivera at your post handling  
15 disciplinary matters?

16 A No.

17 Q Earlier you testified multiple times that you called  
18 Hector Rivera directly. My question is, were you following  
19 instructions for the condominium administration; yes or no?

20 A Yes.

21 Q I need you to clarify one issue for me. When you  
22 interviewed security guard prospects, the one who accepted  
23 them on behalf of Special Police was Jonathan Andujar; yes or  
24 no?

25 MR. GLICK: Objection to the characterization of

1 the testimony.

2 THE COURT: Is this based on what she testified  
3 before?

4 MR. B. GUZMAN-GUZMAN: Yes.

5 MR. GLICK: I believe the witness' answer before  
6 does not lend itself to a yes-or-no form.

7 THE COURT: Mr. Andujar was there at the beginning,  
8 not at all times, so we need to set a time frame as well.

9 MR. B. GUZMAN-GUZMAN: I am talking to her when she  
10 did the interviews to recruit. So I am talking about the  
11 beginning.

12 THE COURT: At the beginning?

13 MR. B. GUZMAN-GUZMAN: Yes.

14 THE COURT: Okay. Please rephrase.

15 BY MR. B. GUZMAN-GUZMAN:

16 Q At the beginning of the relationship when you  
17 interviewed prospects, the person who approved them on behalf  
18 of Special Police was Jonathan Andujar; yes or no?

19 A No.

20 Q Was it the Pine Grove administration?

21 A That depended on what candidate was sent.

22 Q But on behalf of Special Police, was it Andujar?

23 A Could you please repeat the question.

24 Q The new recruits who worked for Special Police --

25 A For the first time?

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1 Q First time. When you interviewed the first couple of  
2 people to fill out those openings.

3 A You mean when I did it?

4 Q Correct.

5 A That process was carried out with Mr. Freddy De Jesus.  
6 Mr. Jonathan Andujar was never involved in that process.

7 Q Do you remember what year that process took place?

8 A No, I don't recall.

9 Q Was that before 2012; correct?

10 A I don't recall.

11 Q But it was at the beginning of the relationship between  
12 Pine Grove and Special Police.

13 A I don't recall.

14 Q In one of your answers to brother counsel, you testified  
15 that you knew Hector Rivera from outside of Special Police.

16 A Yes.

17 Q Would it be fair to say that you had confidence to call  
18 Hector Rivera directly for any issue?

19 A The word "confidence" is not the proper word.

20 When I was assigned entry of the residents'  
21 information into the data system, that's when I had direct  
22 communication with Hector in order to assign which groups or  
23 complexes were going to be worked on.

24 Q But when you testified about your job responsibilities,  
25 they were strictly with Pine Grove; correct?

1 THE COURT: For Pine Grove under the  
2 administration? Under the contract with Special Police  
3 Force, or...

4 MR. B. GUZMAN-GUZMAN: With Special Police when she  
5 described her responsibilities or her duties, that's what I  
6 am referring to.

7 BY MR. B. GUZMAN-GUZMAN:

8 Q Your duties were performed for the Pine Grove complex.

9 THE COURT: Don't answer.

10 I did not understand the question, so please  
11 rephrase.

12 MR. B. GUZMAN-GUZMAN: I am going to withdraw the  
13 question.

14 BY MR. B. GUZMAN-GUZMAN:

15 Q You referred to Mr. Hector Rivera as "el jefe", as the  
16 boss; that's correct?

17 A Yes.

18 Q He was the boss because he was the owner of the company;  
19 correct?

20 A Yes.

21 Q Did you ever receive any training as a security guard  
22 from Special Police?

23 A What do you mean by "training"?

24 Q Training as a security guard. Training for your duties  
25 for Special Police as a security guard at Pine Grove.

1 A There is no training of that type ever carried out with  
2 Special Police Force.

3 Q The training you received was about the computer  
4 programming; correct?

5 A Regarding the data entry program for residents and  
6 visitors.

7 Q That program was offered by Special Police to Pine  
8 Grove; correct?

9 A I don't know.

10 Q Hector Rivera personally never gave you any type of  
11 training; correct?

12 A What do you mean by Hector Rivera never gave me any type  
13 of training?

14 Q Any training related to your duties at Special Police,  
15 personally did not give you any training.

16 A No.

17 Q To the best of your knowledge, Hector Rivera did not  
18 have a contract to service the computers at Pine Grove  
19 Condominium; correct?

20 MR. GLICK: Objection.

21 THE COURT: Sustained.

22 BY MR. B. GUZMAN-GUZMAN:

23 Q Do you know if Hector Rivera had any contract to service  
24 the computers with Pine Grove?

25 MR. GLICK: Objection. Asked and answered.

1 THE COURT: Overruled.

2 THE WITNESS: I don't know.

3 BY MR. B. GUZMAN-GUZMAN:

4 Q You said you went to another job at 2014. Do you  
5 remember the month?

6 A I think it was in July.

7 Q You said that you called Hector Rivera to inform of that  
8 situation; correct?

9 A Yes.

10 Q But at the time you had a field -- a director of  
11 operations; correct?

12 A Yes.

13 Q And that director of operations was not Hector Rivera;  
14 correct?

15 A No, he wasn't.

16 Q The reason you made that phonecall to Hector Rivera was  
17 because you had a trust relationship with him.

18 A No.

19 Q Do you recall if he ever loaned you any money?

20 MR. GLICK: Objection. Outside the scope.

21 THE COURT: Sustained.

22 MR. B. GUZMAN-GUZMAN: No more questions.

23 **CROSS-EXAMINATION**

24 BY MR. RODRIGUEZ-IZQUIERDO:

25 Q Good morning, ma'am.

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1 A Good morning.

2 MR. RODRIGUEZ-IZQUIERDO: May it please the Court,  
3 Your Honor.

4 THE COURT: Yes.

5 BY MR. RODRIGUEZ-IZQUIERDO:

6 Q Ma'am, going back to the time when -- in Los Pinos  
7 complex --

8 THE COURT: Pine Grove.

9 MR. RODRIGUEZ-IZQUIERDO: Pine Grove complex.

10 BY MR. RODRIGUEZ-IZQUIERDO:

11 Q Going back to the time when Special Police came into  
12 play, you started doing the recruitment of the new candidates  
13 for the guard police at Pine Grove, you mentioned that the  
14 person who set the criterias for selecting those candidates  
15 was Mrs. -- was the attorney for the Board of Directors of  
16 Pine Grove, Attorney Maria -- I am sorry. Did you mention  
17 her name?

18 A Maria Elisa Santiago.

19 Q Okay. So would it be correct that she was the one who  
20 set up --

21 MR. GLICK: Your Honor, objection to the form.

22 THE COURT: Yes. Counsel, it's convoluted.

23 MR. RODRIGUEZ-IZQUIERDO: Okay. I will make the  
24 question again.

25 THE COURT: Please rephrase.

1 BY MR. RODRIGUEZ-IZQUIERDO:

2 Q Would you agree with me that you mentioned a while ago  
3 that the one who set up the criterias for selecting those  
4 candidates was the attorney for the Board of Directors?

5 A She, along with the administrative board, because it is  
6 a board.

7 Q And you were appointed by her to make the interviews of  
8 those candidates, were you not?

9 A When it was pertinent.

10 Q Is that a yes or no --

11 THE COURT: No. Excuse me.

12 "When she was the president."

13 THE INTERPRETER: The interpreter stands corrected.

14 BY MR. RODRIGUEZ-IZQUIERDO:

15 Q Is that a yes or a no to my question?

16 A Yes.

17 Q And that was because she had -- she wanted to make sure  
18 that those candidates were the ones needed for the posts.

19 MR. GLICK: Objection. Speculation.

20 MR. RODRIGUEZ-IZQUIERDO: No. She testified during  
21 her -- sorry, Your Honor.

22 THE COURT: I agree. Objection is overruled.

23 THE WITNESS: Please repeat the question.

24 THE COURT: That she wanted to make sure the  
25 candidates were appropriate for the posts.

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1 THE WITNESS: I don't know what her reasoning was,  
2 what she wanted to make sure of. She designated people, in  
3 this case me, for the security area for the guardhouse.

4 BY MR. RODRIGUEZ-IZQUIERDO:

5 Q And you were the one to hold interviews with those  
6 candidates.

7 A I was asked to do that afterwards, and I did it.

8 Q Do you recall what those criterias were that she  
9 required you to make sure that those candidates had in order  
10 to become guards?

11 A When you say "her," you mean referring to the attorney?

12 Q Yes. The attorney who was the president of the board.

13 A I don't know if that's what she wanted, but based on the  
14 time that I had been working with the condominium, that's my  
15 understanding of what she wanted to happen at the time.

16 THE COURT: Ma'am, the question was, which was the  
17 criteria that Attorney Santiago was looking for, period.

18 THE WITNESS: She wanted them to have knowledge  
19 about security. She wanted the duties and responsibilities  
20 to be carried out with excellence. She wanted the duties of  
21 each shift to be carried out. And she wanted the rules and  
22 regulations of each area to be followed in excellence.

23 BY MR. RODRIGUEZ-IZQUIERDO:

24 Q Very well. And as part of that, you did hold the  
25 interviews and make the corresponding recommendations for the

1 posts, did you not?

2 MR. GLICK: Objection.

3 THE COURT: It's a compound question.

4 Sustained.

5 BY MR. RODRIGUEZ-IZQUIERDO:

6 Q Did you, in effect, make those interviews?

7 A Of the candidates that were assigned to me from Special  
8 Police Force.

9 Q Is that a yes or a no?

10 A Yes.

11 Q So you did the interviews. And would it be fair to say  
12 that, following those interviews, you made the corresponding  
13 recommendations?

14 MR. GLICK: Objection. Vague.

15 THE COURT: Pardon?

16 MR. GLICK: I object. The phrase "corresponding  
17 recommendations" as vague.

18 MR. RODRIGUEZ-IZQUIERDO: I will withdraw the  
19 "corresponding." I will just leave it with the  
20 "recommendations."

21 THE COURT: Okay.

22 THE WITNESS: Yes. I would forward the information  
23 to the operations director.

24 BY MR. RODRIGUEZ-IZQUIERDO:

25 Q Did you not forward those recommendations to the

1 attorney who gave you the criterias for selecting those  
2 employees?

3 A That was forwarded weekly to a record that was prepared  
4 because the board does not meet continuously.

5 Q Ma'am, to whom did you recommend the appointments -- the  
6 candidates?

7 A When they were assigned to me from Special Police Force,  
8 I forwarded them to the operations director.

9 Q And that would be Andujar.

10 A At the time that I was assigned that task, the  
11 operations director was Mr. Freddy De Jesus.

12 Q Ma'am, if I were to tell you that Mr. Freddy De Jesus  
13 began working for Special Police Force in 2012, would you  
14 still hold your position that you are testifying now, that it  
15 was Mr. De Jesus at that time who was the operation officer?

16 MR. GLICK: Objection. Argumentative.

17 THE COURT: Sustained.

18 BY MR. RODRIGUEZ-IZQUIERDO:

19 Q Your recommendations, were they effectively followed for  
20 the appointment, for the selection of the candidates?

21 A Sometimes they did. And sometimes Mr. Freddy De Jesus,  
22 when he saw the candidate, and he said, "This is going to  
23 cause us a problem."

24 Q So it would be fair to say that sometimes they would  
25 effectively follow your recommendations?

1 A Sometimes.

2 Q Let's say of ten candidates that you offered  
3 recommendations, would it be fair that they would follow your  
4 recommendations in eight cases?

5 A No. We never reached ten candidates.

6 Q My question would be how many candidates were  
7 recommended?

8 A Of those during that period of time that that was done,  
9 which was about a month, a month and a half, we didn't even  
10 reach six candidates because the open shifts were only two.

11 Q And how many were named, appointed?

12 A I don't recall.

13 Q But of those named, some of those you recommended  
14 effectively.

15 A Yes.

16 Q And they were, in fact, appointed.

17 MR. GLICK: Objection. Characterization of her  
18 testimony.

19 THE COURT: Sustained.

20 BY MR. RODRIGUEZ-IZQUIERDO:

21 Q Were they appointed --

22 MR. GLICK: Same objection.

23 THE COURT: Overruled.

24 BY MR. RODRIGUEZ-IZQUIERDO:

25 Q -- those that you recommended.

1 A Could you repeat the question.

2 Q Of those that you mentioned you recommended, do you know  
3 if they were appointed to the post?

4 A Sometimes they did.

5 Q Did you also supervise employees at Pine Grove, the  
6 guards?

7 A What do you mean by supervise? Because the supervision  
8 position and supervising are two different things.

9 Q Did you follow their day-to-day work and make sure that  
10 they were doing the work correctly?

11 A When my shift came, I would check each shift, and would  
12 send the reports to the administration, pursuant to the  
13 instructions.

14 Q Assuming somebody complained about how a guard was  
15 conducting his work there, would you be the person to go and  
16 make the claim?

17 A No. Many times it was the residents, or visitors that  
18 had arrived and complained. Or sometimes they wanted to come  
19 visit somebody, and if the guard was doing his job, they  
20 would become uncomfortable with that or be upset about that,  
21 and then would want to write up a report.

22 Q And they would complain to you?

23 A Many times they would come to me. On other occasions  
24 they would go to the board of directors, and the board of  
25 directors would then forward that information to security.

1 And there a detailed report of the complaint would be  
2 drafted, and, obviously, that was forwarded to the director  
3 of operations, and he would be notified of what was going on.

4 Q And you would be the person to prepare that report,  
5 would you not?

6 A Not necessarily.

7 Q But you did occasionally prepare the report, did you  
8 not?

9 A If the complaint came to me directly, I would draft it.  
10 And if the person complained to me, I would tell them to put  
11 it in writing, and then it would be forwarded.

12 Q And in that report you also made recommendations as to  
13 what type of discipline should be imposed.

14 A No.

15 Q You never engaged in any process of imposing  
16 disciplinary measures to an employee that was under your  
17 supervision?

18 A That would be consulted with the operations director,  
19 and the responsibility was his. And he would decide whether  
20 the person would be given a written warning, whether he would  
21 be suspended, or summoned to the office after I had submitted  
22 the report and the details of the situation.

23 Q I would like to call your attention, ma'am, to Exhibit 3  
24 of the Plaintiffs.

25 MR. RODRIGUEZ-IZQUIERDO: If we can show the

1 witness the document.

2 THE COURT: Use the Elmo, please.

3 MR. RODRIGUEZ-IZQUIERDO: May I publish it?

4 THE COURT: Yes.

5 BY MR. RODRIGUEZ-IZQUIERDO:

6 Q Ma'am, are you familiar with this document?

7 A I said earlier that this was like the record sheet that  
8 was used to close off the payroll.

9 Q So that's a lookalike?

10 A Similar.

11 Q But that is not the document of the sheet -- of the  
12 attendance sheets for Pine Grove complex.

13 A No.

14 Q As a matter of fact, you don't have personal knowledge  
15 of anything that is contained in that document.

16 A No.

17 THE COURT: Excuse me. There is an objection.

18 MR. GLICK: The objection is the characterization  
19 of the testimony. I believe the witness testified before  
20 that that was the type of information recorded in time  
21 sheets.

22 THE COURT: And she said she did recognize the  
23 document.

24 And your question, Mr. Rodriguez, is if she has  
25 personal knowledge as to those signatures.

1 MR. RODRIGUEZ-IZQUIERDO: And the content of that  
2 document, yes, and the employees, and the site, and the  
3 dates, everything.

4 THE COURT: Mr. Rodriguez, the objection is  
5 overruled. If you want, you can go column by column, but you  
6 have to be specific.

7 MR. RODRIGUEZ-IZQUIERDO: All right.

8 BY MR. RODRIGUEZ-IZQUIERDO:

9 Q Going to the document -- let's go to the beginning of  
10 the document. It says, name of the post, right at the top,  
11 at the left side. So in page 2 of Exhibit 3 -- page 1, I am  
12 sorry, of Exhibit 3, what is the name of the site or the  
13 post?

14 A Of the document that I am looking at?

15 Q Correct.

16 A It's says, name of the post, Villa Venezia.

17 Q Did you have any familiarity with Villa Venezia post  
18 during the time you worked for Special Police?

19 A I was familiarized when I was doing data entry for  
20 several positions, but I don't recall each one.

21 Q But you did not work as a security guard at Villa  
22 Venezia, nor did you supervise employees.

23 A No.

24 Q So let me then go now to the names of the officials  
25 there. Are you familiar with those employees?

1 MR. GLICK: I object regarding the scope of -- this  
2 is not -- this line of examination precedes the scope of the  
3 witness' testimony regarding this document. She didn't  
4 testify about the names and has already just testified that  
5 she wasn't familiar with --

6 THE COURT: The document, the whole document was  
7 admitted. No limitations were requested. The signatures are  
8 there. So I think that -- and there was no objection to the  
9 admission of the document, so I think that  
10 Mr. Rodriguez-Izquierdo can get into the content.

11 Overruled.

12 Do you know the names, ma'am?

13 THE WITNESS: I don't recall -- I don't recognize  
14 anyone with that name.

15 BY MR. RODRIGUEZ-IZQUIERDO:

16 Q And you don't have person knowledge of this document in  
17 terms of when it was made and those entries were made there.

18 A No.

19 Q And you don't recognize either -- I will withdraw that  
20 question.

21 I call your attention now, ma'am, to page 4 of  
22 Exhibit 3?

23 THE COURT: You have to publish it.

24 MR. RODRIGUEZ-IZQUIERDO: I am sorry, Your Honor.

1 BY MR. RODRIGUEZ-IZQUIERDO:

2 Q Would it be the same for this document as I asked to you  
3 in the other documents about the names and the familiarity  
4 with that document?

5 A Yes.

6 Q And would that be the same also, ma'am, for page 6 of  
7 Exhibit 3?

8 A Yes.

9 Q How about this document, page 8 of Exhibit 3?

10 A I can't see the bottom clearly.

11 Yes.

12 Q And we are talking there about Cooperativa San  
13 Francisco, would that be correct?

14 A It says, name of the post, Cooperativa San Francisco.

15 Q Very well. I will withdraw this document.

16 And, lastly, witness, how about this document, page  
17 11, would be the same question.

18 A I can't see the edge properly.

19 Yes.

20 Q I would like you to show you -- you have the entire  
21 document with you.

22 MR. RODRIGUEZ-IZQUIERDO: Can I show the witness so  
23 that she can review it, and I would ask her a question  
24 about --

25 THE COURT: You have to give it to her.

1 MR. RODRIGUEZ-IZQUIERDO: Okay.

2 THE COURT: Let's use the exhibit which is marked,  
3 which was provided by the courtroom deputy.

4 MR. RODRIGUEZ-IZQUIERDO: That one that I have?

5 THE COURT: Yes.

6 MR. RODRIGUEZ-IZQUIERDO: Can I have a minute? I  
7 took them out of order, Your Honor. I am sorry. I need like  
8 a minute. I don't know how I did -- put them out of order.

9 THE COURT: The pages are not numbered?

10 MR. RODRIGUEZ-IZQUIERDO: Yes, but I just got them  
11 out of order, and now I am -- just a second.

12 BY MR. RODRIGUEZ-IZQUIERDO:

13 Q Ma'am, I want to show you the entire document, the  
14 document consisting of 12 pages. I went through some of  
15 those pages, but I would like now for you to take a look at  
16 the entire document, and I would like you to tell us if any  
17 of those documents, you do -- contrary to the other ones that  
18 I asked you, if you do recognize that?

19 MR. GLICK: I would just object to the form. If we  
20 could clarify more specifically or break it down.

21 THE COURT: When the document was introduced, and  
22 only the first page was shown on the Elmo, she was asked  
23 whether she recognized the document, and she said yes. Page  
24 1 was the only one which was shown. Okay?

25 So now I am not sure as to whether what her answer

1 meant. If it was only one page. Now we know that it has 12  
2 pages. So we need to clarify that.

3 And what is that, Mr. Rodriguez, exactly what you  
4 are looking for?

5 MR. RODRIGUEZ-IZQUIERDO: Let me see if I can try  
6 again.

7 BY MR. RODRIGUEZ-IZQUIERDO:

8 Q When you testified awhile ago to this -- let me publish  
9 this document?

10 THE COURT: The first page?

11 MR. RODRIGUEZ-IZQUIERDO: The first page of  
12 Exhibit 3.

13 THE WITNESS: I can't see it completely.

14 BY MR. RODRIGUEZ-IZQUIERDO:

15 Q You did mention that you were familiar with this  
16 document, or was it that it was a lookalike of what you are  
17 familiarized?

18 A Similar.

19 Q So now I ask you now, in connection with the entire  
20 document, if your familiarity was the same as due to the fact  
21 that it is a lookalike of what you know?

22 THE COURT: Please approach.

23 I want to see the document.

24 (Whereupon, the following proceedings were held at  
25 sidebar:)

1 THE COURT: None pages of Exhibit 3 refer to find  
2 it. None of them. So I am assuming that what Mr. Rodriguez  
3 is looking for is if she has any knowledge as to these 12  
4 pages which do not relate to find of where is the location  
5 where she worked.

6 MR. RODRIGUEZ-IZQUIERDO: That's the purpose.

7 MS. JACOBS: That's not our position.

8 THE COURT: That's not how the question was posed.  
9 I interpreted, when the first page was shown, she was asked  
10 whether she recognizes it, and she said, yes, period. There  
11 was no questions as to -- and she said that it was code for  
12 the name of the official, the hour, when the person came in,  
13 came out, the dates. But no questions were posed as to the  
14 content.

15 So your position is that it was presented only as  
16 to the format.

17 MR. GLICK: Yes, I agree with the witness'  
18 testimony regarding the information she recorded about her  
19 hours, the company. She described having entered --

20 THE COURT: A blank document was presented instead,  
21 and it has 12 pages. Why do we need 12 pages to show.

22 MR. RODRIGUEZ-IZQUIERDO: Your Honor --

23 MS. JACOBS: First of all, you don't have blank.  
24 These are the records that were provided to us by the  
25 Defendants. There were no blank forms. This is a sample of

1 a different post, covering the relevant period of time.

2 This witness is not --

3 THE COURT: So it was for the limited purpose only?

4 MS. JACOBS: In regards to this witness, yes.

5 THE COURT: Okay. Can we stipulate then that she  
6 has no personal knowledge as to content of these documents?

7 MR. RODRIGUEZ-IZQUIERDO: I have no problem with  
8 that.

9 THE COURT: Just say bunch of signatures and  
10 persons who were there.

11 MS. JACOBS: It's just to show her the format.

12 THE COURT: It was not specific when we introduced  
13 the document, and it was limited to the format of the  
14 document. Twelve pages with signatures is very different for  
15 the limited purpose and for the content of the document, so I  
16 am trying to clarify that.

17 MR. GLICK: I appreciate Your Honor, and we intend  
18 to use this same exhibit with the other witness regards the  
19 records.

20 THE COURT: I understand. So you can use it then  
21 later. But my question is whether you are willing to  
22 stipulate, all of you, as to this witness having no knowledge  
23 as to the handwritten parts.

24 MR. GLICK: Yes, Your Honor.

25 THE COURT: Is that okay?

1 MR. RODRIGUEZ-IZQUIERDO: Yes.

2 MR. A. GUZMAN-GUZMAN: Your Honor, she didn't  
3 testify exactly about this document. She testified about  
4 another document with the hour and the rates and the payment  
5 of the payroll.

6 THE COURT: Remember, you will have your chance in  
7 cross to verify that.

8 MR. A. GUZMAN-GUZMAN: If she didn't specifically  
9 have any knowledge of this document, familiarity of the  
10 document, and it's not same that she saw, not even the  
11 format, why won't it be stricken from the testimony as an  
12 exhibit in this case? Because she doesn't have any knowledge  
13 of it.

14 THE COURT: I asked you three whether you have an  
15 objection to that document, and you said no. So it was  
16 admitted already. That's water under the bridge.

17 MR. RODRIGUEZ-IZQUIERDO: Your Honor, in  
18 reconsideration, it's that the document -- the probative  
19 value of the document does not --

20 THE COURT: I will not reconsider that, counsel.  
21 You were provided the document before that. I asked you, "do  
22 you have any objection to the admission?" The document is  
23 admitted.

24 There is a stipulation that this witness doesn't  
25 know or has personal knowledge as to the handwritten

1 portions, period. That's my ruling.

2 It's five past noon. I see some people here which  
3 are related to my duty matter. I informed you that I was on  
4 criminal duty, so I have to take care of that.

5 Would it be a good moment to take the lunch recess  
6 now?

7 MR. RODRIGUEZ-IZQUIERDO: I believe so, Your Honor.

8 MR. GLICK: The witness intends to go back to work.  
9 She needs to be here for as long as it takes, but we would  
10 like to finish as soon as possible.

11 THE COURT: I have Mr. Rodriguez to conclude. I  
12 have another cross to conclude, and you have redirect. And I  
13 have duty matters.

14 MR. GLICK: Understood.

15 THE COURT: So there isn't much I can do.

16 MR. GLICK: Sure.

17 MR. RODRIGUEZ-IZQUIERDO: What time will we be  
18 back?

19 THE COURT: 1:30.

20 MR. RODRIGUEZ-IZQUIERDO: I finished with my cross,  
21 Your Honor, so I don't --

22 THE COURT: Do you want to finish now? How long  
23 will that be?

24 MR. RODRIGUEZ-IZQUIERDO: No, no. That was my  
25 last --

1 THE COURT: Oh, you are done?

2 MR. RODRIGUEZ-IZQUIERDO: The thing about the  
3 documents --

4 THE COURT: Perfect.

5 Let's continue till 12:30. See if we can finish by  
6 12:30. That's the most I can do, and then we will resume at  
7 1:30.

8 (Back on the record.)

9 THE COURT: Mr. Rodriguez, you concluded with the  
10 cross; right?

11 MR. RODRIGUEZ-IZQUIERDO: That's correct. I have  
12 no further questions, Your Honor.

13 Permission to withdraw.

14 THE COURT: Cross then by Mr. Arturo Guzman.

15 Go ahead.

16 MR. A. GUZMAN-GUZMAN: For the record, this is  
17 Attorney Arturo Guzman on behalf of Freddy De Jesus.

18 **CROSS-EXAMINATION**

19 BY MR. A. GUZMAN-GUZMAN:

20 Q Good afternoon.

21 A Good afternoon.

22 Q Ms. Ortiz, I am kind of confused about the date that you  
23 start working with Special Police Force because you testified  
24 about a couple of dates, but we want to be clear on those.

25 You said that in 2006 you started working at the

1 post on Pine Grove?

2 THE COURT: That's not what she testified.

3 If my memory doesn't fail, she gave another date.

4 MR. A. GUZMAN-GUZMAN: Well, that was, Your Honor,  
5 the first question that was made by brother counsel, and her  
6 answer was from 2006 to 2014.

7 THE COURT: Okay. It may be that I am mistaken.

8 Go ahead.

9 MR. GLICK: Your Honor, I agree. There was  
10 testimony regarding another date, and I believe the witness  
11 answered the question about her dates to the best of her  
12 knowledge.

13 THE COURT: Let's try to clarify it.

14 BY MR. A. GUZMAN-GUZMAN:

15 Q You were working at the Pine Grove post in 2004; yes or  
16 no?

17 A For another company, yes.

18 Q 2005, you were working at the Pine Grove post; right?

19 A For the other company, yes.

20 Q You continued working until 2014 in that post; is that  
21 correct?

22 A I was working for the Pine Grove Condominium till  
23 approximately 2014.

24 Q This is what I get confused. You were working for the  
25 Pine Grove Condominium, or you were working for Special

1 Police?

2 A I was working at the Pine Grove Condominium  
3 subcontracted by Special Police, when Special Police came to  
4 the condominium. Prior to that --

5 Q Answer my question. I am going to make you another  
6 question now?

7 MR. GLICK: If the witness could finish her answer.

8 THE COURT: No. She answered the question. You  
9 may ask on redirect.

10 Next question.

11 BY MR. A. GUZMAN-GUZMAN:

12 Q There was mention when the Special Police did the  
13 transition, on what year was that?

14 A As I said earlier, I don't recall.

15 Q Okay. You told me a few minutes ago, you remember that  
16 from 2000 -- I asked you each year, 2004, 2005, 2006. You  
17 told me that you worked for another company in Pine Grove  
18 until 2006. You remember that?

19 A You asked me when I worked at Pine Grove, and I said --  
20 you asked about 2004 and 2005, and I worked at Pine Grove for  
21 another company at that time.

22 Q Okay. How about 2006? Were you working for another  
23 company; yes or no?

24 A I don't recall the specific date in which the transition  
25 occurred from one company to the other.

1 THE COURT: Let's move on because that has been  
2 asked and answered many times, and she has been consistent in  
3 her answer.

4 MR. A. GUZMAN-GUZMAN: Your Honor, we were getting  
5 close. We got until 2006.

6 BY MR. A. GUZMAN-GUZMAN:

7 Q To all brother counsels, did you or did you not, in your  
8 answer, state that you were the supervisor of the Pine Grove  
9 post?

10 A Yes.

11 Q In regard to the questions made by all brother counsels,  
12 you mentioned a criteria for interviews when the transition  
13 occurred; is that correct?

14 A What are you talking about?

15 Q You indicated to this Court, you stated that Attorney  
16 Maria Elisa Santiago established the criteria for the  
17 interviews to fill the openings on Pine Grove; is that  
18 correct?

19 A Yes.

20 Q I ask you, did Ms. Maria Elisa Santiago handed you a  
21 questionnaire to do the interview; yes or no?

22 A I don't recall.

23 Q Did you -- let me rephrase that.

24 Did you did those interviews by yourself; yes or  
25 no?

1 A (No translation because counsel didn't allow for  
2 translation.)

3 MR. A. GUZMAN-GUZMAN: Your Honor, the witness is  
4 not answering the question.

5 THE COURT: Ma'am, yes or no.

6 THE WITNESS: Please repeat the question.

7 BY MR. A. GUZMAN-GUZMAN:

8 Q Did you did those interviews by yourself; yes or no?

9 A No.

10 Q So, for me to understand, at the same time that you were  
11 doing the interview, was another person there with you  
12 interviewing the candidate?

13 A No.

14 Q How many security guards were posted at Pine Grove while  
15 you were the supervisor there?

16 A There were three guards, me included, and one in case  
17 there was an absence.

18 Q When you mean runners, you mean these persons or  
19 personnel that will cover in case there is an absence?

20 A Yes.

21 Q My question was in the beginning that how many were  
22 posted, and I mean -- I am going to rephrase that.

23 How many were posted at the same time? Just one  
24 guard? Two guards? How many?

25 A It was a total of five because we had three that would

1 cover the fixed shifts, and then two for days off.

2 Q I think my question was not understand.

3 At the same time, supposed it's 12 o'clock, how  
4 many guards are working at 12 o'clock?

5 A One per shift.

6 Q You explained to brother counsel that in the assistant  
7 sheet that you mentioned, that it's not the same as we saw  
8 before, that there was a part there to say if the guard was  
9 on route or runs or these are Rs; is that correct? It's  
10 marked with an R if they were on routes or runs?

11 A I said that in my case, for my position, when I was  
12 asked a question, since it was the guard booth, there was no  
13 rounds. So it was only used guard booth.

14 Q Thank you for the answer.

15 MR. A. GUZMAN-GUZMAN: I am trying to be as concise  
16 as I can, Your Honor. Trying to finish fast.

17 BY MR. A. GUZMAN-GUZMAN:

18 Q So when you mentioned that you were a supervisor at Pine  
19 Grove, what were your duties as a supervisor?

20 A I was in charge of the documentation and requesting that  
21 it be filled out. I was in charge of making sure that the  
22 shifts were covered in excellent fashion, that the visitors  
23 register was kept, and that the duties were carried out in  
24 excellent fashion and that the cameras were operating.

25 Q And you were doing those functions on behalf and

1 interest of the condominium, of Pine Grove?

2 THE COURT: Don't answer.

3 MR. GLICK: The phrase "for the interest" strikes  
4 me as a legal framing. That is a problem.

5 THE COURT: It does.

6 And I have an issue with the way the question is  
7 formed, so please refrain.

8 Objection sustained.

9 BY MR. A. GUZMAN-GUZMAN:

10 Q When you were working for Special Police in Pine Grove,  
11 do you follow the criteria of --

12 THE COURT: The criteria was for recruitment, and  
13 the question you posed now was when she was working.

14 MR. A. GUZMAN-GUZMAN: May I approach the bench,  
15 Your Honor?

16 THE COURT: Yes.

17 (Whereupon, the following proceedings were held at  
18 sidebar:)

19 MR. A. GUZMAN-GUZMAN: Your Honor, I think she has  
20 mentioned, and in every interrogatory done before me, the  
21 directs or cross, that she followed criteria of the  
22 condominium, that she followed the interest --

23 THE COURT: For the interviews of the candidates.  
24 The word "criteria" was not used for that purpose.

25 MR. A. GUZMAN-GUZMAN: Exactly. I was trying to

1 answer your question because she has been establishing that  
2 she was trying in all ways to please the condominium. The  
3 condominium just gave her work after -- or at least I  
4 understand that, and that is my direction on the  
5 interrogatory. I want to know who hired her, and she  
6 established it was the same Maria Elisa.

7 THE COURT: It's a subcontractor. Her testimony is  
8 that she was employed by Special Police Force, and that  
9 company was subcontracted by the condominium, provided  
10 service. That happens every day. She was there providing a  
11 service, and she was employed by someone else.

12 MS. JACOBS: I am a little confused as to this  
13 because I don't know if she is on the Special Police payroll.  
14 Are they trying to claim she didn't work for Special Police  
15 Force?

16 THE COURT: No.

17 I think maybe you should sue her as to that, as  
18 part of the --

19 MR. A. GUZMAN-GUZMAN: We are learning about this  
20 right now.

21 THE COURT: You should have sued her as well.

22 MR. A. GUZMAN-GUZMAN: I withdraw the question,  
23 Your Honor.

24 (Back on the record.)

25 THE COURT: She is an employee, period.

1 BY MR. A. GUZMAN-GUZMAN:

2 Q You stated before that there were at the beginning one  
3 director of operations; is that correct?

4 A There always has been one, yes.

5 Q I ask you if Jonathan Andujar has always been the  
6 director of operations of Special Police?

7 MR. GLICK: Objection.

8 THE COURT: Sustained. Mischaracterizes her  
9 testimony.

10 She has said, at the beginning it was Andujar, and  
11 then it was Freddy De Jesus.

12 MR. A. GUZMAN-GUZMAN: I will rephrase the  
13 question.

14 THE COURT: That has already been covered.

15 BY MR. A. GUZMAN-GUZMAN:

16 Q When Freddy De Jesus was the director of operations, as  
17 you stated before, what was the position of Jonathan Andujar?

18 MR. GLICK: Objection. Foundation.

19 THE COURT: Please repeat the question.

20 BY MR. A. GUZMAN-GUZMAN:

21 Q As you stated before, when Freddy De Jesus -- I want to  
22 specify at the second time, she stated two times -- was the  
23 director of operations, what was the position of Freddy  
24 De Jesus?

25 THE COURT: Overruled.

1 Please answer?

2 THE WITNESS: I don't know because Mr. Andujar  
3 stopped going to the complex. I never saw him again.

4 BY MR. A. GUZMAN-GUZMAN:

5 Q The Exhibit 3 that you already took a look  
6 substantially, and you described that it's familiar to you,  
7 at the end of the table, it says, the total of work hours,  
8 was signed by somebody?

9 THE COURT: We already stipulated that she has no  
10 knowledge as to the content, handwritten portions of that  
11 document, so she cannot testify as to that.

12 MR. A. GUZMAN-GUZMAN: May I approach the bench,  
13 Your Honor, please?

14 THE COURT: No. Please rephrase the question,  
15 simply as to the columns. Not as to a specific portion  
16 handwritten there.

17 MR. A. GUZMAN-GUZMAN: Your Honor, we are not going  
18 to the specifics of that document. The documents that she is  
19 familiar with, we are laying our foundation for our next  
20 question.

21 I am going to rephrase the question.

22 BY MR. A. GUZMAN-GUZMAN:

23 Q Did the supervisor in any way sign or initial or set his  
24 initial on that document, on the assistant record?

25 A When they run a supervisor post, they would sign the

1 payroll as if having been attended and -- as having been  
2 present, and then would fill out the book as having visited  
3 the post.

4 Q Okay. You just said the supervisor of the shift; is  
5 that right?

6 A Yes. Let me explain.

7 MR. A. GUZMAN-GUZMAN: Your Honor, may I have  
8 Exhibit 3?

9 THE COURT: Yes. It's almost 12:30, and we need to  
10 take a break very soon.

11 MR. A. GUZMAN-GUZMAN: Well, if the Court will  
12 allow me just one last question.

13 THE COURT: Yes.

14 MR. A. GUZMAN-GUZMAN: Then we can break.

15 BY MR. A. GUZMAN-GUZMAN:

16 Q I am going to show you page 1 as an example of the shift  
17 that you just said that you were familiar with?

18 MR. GLICK: Your Honor, I would just hope that we  
19 are getting beyond page 1 very quickly after this foundation  
20 is laid.

21 THE COURT: I don't know.

22 BY MR. A. GUZMAN-GUZMAN:

23 Q Whose initials are there at the end?

24 THE COURT: She cannot testify as to that. She  
25 doesn't know.

1           You can ask her what she did in those documents  
2 when she had -- if she had to sign them, but not as to this.  
3 She cunt know.

4           MR. A. GUZMAN-GUZMAN: Let me rephrase the  
5 question.

6           THE COURT: Please.  
7 BY MR. A. GUZMAN-GUZMAN:

8       Q     There are initials there at the end. What position in  
9 the company will be the person who makes those initials?

10          THE COURT: Don't answer.  
11          Grounds?

12          MR. GLICK: If I understood the form of the  
13 question, it was so related to the particular page 1, but --  
14 I withdraw the objection.

15          THE COURT: Please answer.

16          THE WITNESS: Could you please repeat the question.  
17 (Whereupon, the interpreter repeated the  
18 question.)?

19          THE WITNESS: I can't answer about a document  
20 that's not familiar to me.

21 BY MR. A. GUZMAN-GUZMAN:

22       Q     You told this Court that you were familiar with that  
23 document. You described it as your document.

24       A     In my payroll sheets at Pine Grove -- in my payroll  
25 sheets and attendance sheets as Pine Grove, which were

1 specific, because they had to be made new because they --  
2 many of them were made as new documents. There was a space  
3 there that said "supervisor's signature." I would sign. And  
4 if I didn't sign because I was off, then the field supervisor  
5 would sign. He is the one that would cover the various  
6 routes.

7 Q Now I am confused again?

8 THE COURT: Okay. We are going to take the break  
9 now.

10 Ms. Ortiz, you remain under oath during the lunch  
11 break. I tried to accommodate the request that you be  
12 released after lunch, but it has been impossible, as you have  
13 seen. So we will be resuming at 1:30.

14 Please do not discuss your testimony in anyone  
15 during the break. If you need an appearance by the Court  
16 certifying that you were here, it will gladly be prepared for  
17 you.

18  
19 (PROCEEDINGS SUSPENDED AT 12:30 P.M.)

20 (PROCEEDINGS RESUMED AT 1:50 P.M.)

21  
22 THE COURT: Let's continue with the  
23 cross-examination of Ms. Ortiz.

24 You can take the stand.

25 Good afternoon.

Joe Reynosa, CSR, RPR  
Official Court Reporter

1 Go ahead.

2 MR. A. GUZMAN-GUZMAN: Good afternoon.

3 For the record, this is Attorney-at-law Arturo  
4 Guzman on behalf of Freddy De Jesus.

5 BY MR. A. GUZMAN-GUZMAN:

6 Q Last question was in regard to the assistance document  
7 that you had at Pine Grove, that you told us that was  
8 different from the one shown at Exhibit 3, shown to you  
9 before as Exhibit 3; is that correct?

10 A Yes.

11 Q The last question you testified that on the document  
12 from Pine Grove, there wasn't a space for the supervisor; is  
13 that correct? There wasn't a space, a blank.

14 You testified that -- because it has a space for  
15 the supervisor to sign; is that correct?

16 A Yes.

17 Q Who were the persons or person to sign in that  
18 supervisor space?

19 A There were several supervisors.

20 Q Okay. I am going to ask you that question, you as the  
21 supervisor, did you ever sign your name in that space?

22 A When the route supervisor did not attend the shift to  
23 supervise, then, yes.

24 Q What were the names of the other supervisors that you  
25 said also signed that space?

1 A Again, I will repeat that there were several field  
2 supervisors. I do not remember exactly all of their names,  
3 but there were several. There were gentlemen, and I remember  
4 there was also one lady. I can't remember their last names.

5 Q You don't remember the last name of none of them?

6 A Of the supervisors who went to the field, there were  
7 several of them. I can't remember. I don't remember.

8 Q You testified before that you interviewed some person on  
9 the first instance for people to be hired for Pine Grove,  
10 security guards; right?

11 We know that Special Police hired those persons or  
12 most of the persons that you recommended; is that correct?

13 MR. GLICK: Objection. The characterization of the  
14 relationships between companies is becoming -- I think  
15 stating a conclusion.

16 THE COURT: And I believe the question  
17 mischaracterizes the testimony that the witness gave  
18 previously, because I don't think her answer was that on most  
19 occasions they were hired.

20 So, please rephrase.

21 Objection sustained.

22 And she is not here to draw any legal conclusion.

23 MR. A. GUZMAN-GUZMAN: I withdraw the question. I  
24 will rephrase it.

1 BY MR. A. GUZMAN-GUZMAN:

2 Q When there was the transition of the companies, you  
3 interviewed personnel for Special Police; is that correct?

4 A No.

5 MR. A. GUZMAN-GUZMAN: I have no further questions,  
6 Your Honor.

7 THE COURT: Redirect.

8 **REDIRECT EXAMINATION**

9 BY MR. GLICK:

10 Q Good afternoon, Ms. Ortiz.

11 A Good afternoon.

12 Q I will try to be very brief.

13 The period of time that you interviewed people for  
14 Special Police Force, was that sometime after the transition  
15 to Special Police Force or --

16 UNIDENTIFIED COUNSEL: Objection, Your Honor. This  
17 is attorney.

18 THE COURT: He hasn't even finished posing the  
19 question, so it's premature.

20 UNIDENTIFIED COUNSEL: Sorry.

21 BY MR. GLICK:

22 Q The period of time that you interviewed people for  
23 Special Police Force, was that at the time of the transition  
24 to Special Police Force or sometime later?

25 A It was sometime after.

Joe Reynosa, CSR, RPR  
Official Court Reporter

1 Q Do I understand correctly that your testimony was that  
2 it was approximately one month to one and a half months that  
3 you were doing that interviewing role?

4 A Yes.

5 Q In relation to the time that you resigned from Special  
6 Police Force, can you describe how long before that you were  
7 doing that one to one and a half months of recruiting.

8 A By the time with respect to the process of interviews,  
9 quite some time had passed by the time I resigned.

10 Q Now, during your testimony you used the phrase "director  
11 of operations" from time to time. Was the term "director of  
12 operations" ever used to refer to someone at Pine Grove, or  
13 was it always Special Police Force, or some combination?

14 A Special Police Force.

15 Q Always Special Police Force?

16 A Yes.

17 MR. GLICK: I have no further questions at this  
18 time.

19 THE COURT: Okay.

20 Any recross, Mr. Izquierdo, based on those  
21 questions?

22 **RECROSS-EXAMINATION**

23 BY MR. RODRIGUEZ-IZQUIERDO:

24 Q Witness, referring to the position of director of  
25 operations --

1 THE COURT: I will not allow now questioning about  
2 the director of operations. It was very simple. If it was  
3 from Pine Grove or Special Police Force. That's it. I will  
4 not allow anything beyond that. Mr. Glick was very concise.

5 MR. RODRIGUEZ-IZQUIERDO: I have no further  
6 questions.

7 THE COURT: Okay.

8 Mr. Benjamin Guzman?

9 MR. B. GUZMAN-GUZMAN: No questions.

10 THE COURT: Mr. Arturo Guzman?

11 MR. A. GUZMAN-GUZMAN: No questions.

12 THE COURT: You are excused, ma'am. Thank you.

13 (Witness excused.)

14 THE COURT: I have some arrests that I have to take  
15 care of. I have a complaint that I have to redo in chambers  
16 and some search warrants, so bear with me. I am going to  
17 take care of that.

18 Who would be the next witness?

19 MR. GLICK: The Plaintiff would next call Mr. Jose  
20 Vazquez.

21 THE COURT: Okay.

22 MR. GLICK: And it will take some time, I expect.

23 THE COURT: Okay. So let me take care of the  
24 matters, and then I will be back, and we will resume with the  
25 testimony.

1 MR. GLICK: Thank you, Your Honor.

2 THE COURT: Thank you.

3  
4 (PROCEEDINGS SUSPENDED AT 2:00 P.M.)

5 (PROCEEDINGS RESUMED AT 2:30 P.M.)

6 THE COURT: So the witness will be?

7 MR. GLICK: Mr. Jose Vazquez.

8 THE COURT: Please take the witness stand.

9  
10 **JOSE VAZQUEZ,**

11 after having been first duly

12 sworn or affirmed upon oath, was examined

13 and testified as follows:

14  
15 THE COURT: Go ahead.

16 MR. GLICK: Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 BY MR. GLICK:

19 Q Good afternoon, Mr. Vazquez.

20 A Good afternoon.

21 Q Could you start by letting us now where are you  
22 currently employed?

23 A I am currently employed by the U.S. Department of Labor,  
24 Wage and Hour Division, for the Caribbean District Office.

25 Q What geographic area does the Caribbean District Office

Joe Reynosa, CSR, RPR  
Official Court Reporter

1 cover?

2 A We cover Puerto Rico and the U.S. Virgin Islands.

3 Q What is your position?

4 A I am the district director.

5 Q And, just generally speaking, what are your  
6 responsibilities as a district director at the Wage and Hour  
7 Division?

8 A I am in charge of minding all the compliance,  
9 enforcement and education, and components of the Wage and  
10 Hour Division.

11 Q And could you tell us a little bit about what  
12 enforcement involves.

13 A Enforcement, basically we go to the field. We do  
14 investigations, check in for compliance of the different laws  
15 that we enforce.

16 Q What are the laws that the Wage and Hour Division  
17 enforces?

18 A We enforce a large number of our laws, but mainly we do  
19 the Fair Labor Standards Act, and we also enforce the Family  
20 Medical Leave Act. We also work with the Migrant Seasonal  
21 Workers Protection Act, and the Service Contract Act.

22 Q Now, specifically for Fair Labor Standards Acts  
23 investigations, what kinds of issues do those investigations  
24 look into?

25 A Well, basically we cover three areas. The first one is

1 section 6, minimum wage violation; section 7, overtime  
2 violation; and section 11, recordkeeping violations.

3 Q About how many investigations does your office conduct  
4 in an average year?

5 A Here in Puerto Rico, we conduct around 180 to 200 for  
6 the same investigations per year.

7 Q Now, I would like to ask some questions specifically  
8 about this case. Were you ever involved in an investigation  
9 regarding a company called Special Police Force?

10 A Yes, I was involved.

11 Q What was your role?

12 A At that point in time I was the direct supervisor of the  
13 investigator that was doing the investigation.

14 Q What did that involve as a direct supervisor on the  
15 investigation?

16 A At that point, basically I had to check that everything  
17 that is going on in the investigations is corresponding to  
18 law. I have to check the file and attend meetings, depending  
19 on situations.

20 Q How much contact, if any, did you have with the  
21 investigator in that case as a direct supervisor?

22 A Well, we have a common practice in the office that every  
23 time an investigator goes to field for an initial conference,  
24 at the end of the day, the investigator should go back to the  
25 office and report to the direct supervisor.

1 Q In this case involving Special Police, who was the  
2 investigator?

3 A The investigator was Ms. Myrta Negron.

4 Q Does Ms. Myrta Negron still work at the Wage and Hour  
5 Division?

6 A No. She retired back in December 2017.

7 Q As an investigator, what was Ms. Negron's role in the  
8 investigation into Special Police Force?

9 A Well, the main role as an investigator is to check for  
10 compliance, and they go to the field. And they do  
11 investigations, and they check for compliance with the law.

12 Q In this investigation, once the investigation was  
13 opened, do you know what -- what was the first thing that  
14 happened in the investigation?

15 A Well, the first thing that happens on any investigation  
16 in our office, the investigator has, basically, two ways to  
17 start an investigation. They do an appointment and visit the  
18 employer or visit the firm. Or they just walk in as a...

19 Q Do you know which of those happened in this case?

20 A In this one, she made an appointment with the firm.

21 Q And in this investigation, do you know what happened  
22 after that appointment was made?

23 A She made an appointment, and she went ahead with the  
24 initial conference after two days. She made the initial  
25 appointment.

1 Q Do you know when the initial conference took place in  
2 this case?

3 A The initial conference was July 1st, 2014.

4 Q What happens at an initial conference, generally  
5 speaking?

6 A We basically meet with the responsible person in the  
7 firm, and we get information about the general operations of  
8 the firm. We usually ask for records. We usually ask for  
9 information about who is the president, who are the Board of  
10 Directors, and if they have any branches, how many employees  
11 they have. And we usually ask for the profile work week of  
12 records. And that's basically the initial conference.

13 Q In this case, do you know where the initial conference  
14 took place?

15 A At the establishment of Private Police.

16 Q Which establishment?

17 A At the main office.

18 Q Were you personally present at the initial conference?

19 A No, I wasn't.

20 Q Are you familiar with some of the details of the initial  
21 conference in this case?

22 A Yes, I am familiar.

23 Q How is it that you are familiar?

24 A I am familiar because I was in charge of that  
25 investigator at that point. As I told you before, we usually

1 meet after the initial conference. And I also have to review  
2 the file for correctness, so I was familiar with it.

3 Q Can you tell us more about what a file involves at the  
4 Wage and Hour Division.

5 A Every complaint action or investigation has a file, and  
6 where we keep all the information, and we prepare a case  
7 diary. We keep a case narrative. We keep all the records  
8 that we received from the employer. And we also keep all the  
9 interviews that were made on that investigation.

10 Q Is it the regular practice of the Wage and Hour Division  
11 to maintain a case file with those documents?

12 A Yes. That's our regular practice.

13 Q Is there a case narrative in this case?

14 A There is one case narrative, of course.

15 Q What about a case diary?

16 A There is one also.

17 Q And are there any other documents in the case file for  
18 this case? What kinds of documents, if any?

19 A Usually investigators, they take notes at the initial  
20 conference, and they have a special form for taking notes.  
21 And we also have all the notes that investigator took at the  
22 initial conference.

23 Q In this case involving Special Police Force, did the  
24 investigator take notes at the initial conference?

25 A Yes, she did.

1 Q Are those notes maintained in the case file?

2 A Those are in the case file, correct.

3 Q Did the investigator, Ms. Negron, take those notes as a  
4 regular practice, as part of her duties at the Wage and Hour  
5 Division?

6 A Yes. That's our regular personal cases, of course.

7 Q Is it the Wage and Hour Division's practice to maintain  
8 those notes as part of the case file?

9 A Yes.

10 Q Have you reviewed those initial conference notes?

11 A Yes, I did.

12 Q Now, in this case, what, if anything, do you know about  
13 what transpired at the initial conference?

14 A At the initial conference, she met with the president of  
15 the company, Mr. Rivera. At that meeting there was also the  
16 accountant of the firm, Mr. Torres. They basically went over  
17 the questions that we usually perform or do. They answer all  
18 the questions. We receive a payroll profile and pay period  
19 profile also. The regular things that we do on an initial  
20 conference.

21 Q I want to go back to something for just one moment. Do  
22 you know in this case specifically whom Ms. Negron contacted  
23 to set up the initial conference?

24 A Mr. Rivera.

25 Q Specifically, what did the Wage and Hour Division learn

1 at the initial conference involving Special Police Force  
2 about the company or its payroll practices, generally?

3 A Well, at the initial conference we learned that the sole  
4 proprietor was Mr. Rivera of the company. Of course, the  
5 accountant, Mr. Torres. We also received some profile pay  
6 period, profile -- yes, it was one week of profile pay  
7 period, and we also found just by looking at those profile  
8 pay period that there were some violations in terms of  
9 overtime work.

10 Q I may come back to that last point, but I want to ask,  
11 did the Wage and Hour Division learn anything during the  
12 initial conference about the size of the business?

13 A Obviously, we have to establish our jurisdiction. So,  
14 yes, we ask questions regarding interstate commerce, and we  
15 ask questions about the annual dollar volume.

16 Q And what did the Wage and Hour Division learn at the  
17 initial conference about the annual dollar volume of Special  
18 Police Force?

19 A It was more than half a million dollars, so we have  
20 jurisdiction.

21 Q Who reported that information at the initial conference?

22 A Mr. Torres and Mr. Rivera were in the initial  
23 conference.

24 Q Did the Wage and Hour Division learn at the initial  
25 conference who prepared Special Police Force's payroll?

1 A Yes. That was one of the questions that we usually ask  
2 in the initial conference. And the answer was that  
3 Mr. Rivera, Mr. Torres were in charge of the payroll records.

4 Q Now, I believe you testified that the company provided  
5 some records at the initial conference such as profile work  
6 week records. Did the Wage and Hour Division request any  
7 additional records at the initial conference?

8 A Yes. We usually request two years of records.

9 Q And what about specifically at this initial conference,  
10 do you know if that request was made?

11 A Yes, the request was made.

12 Q Now, I would like to ask some more questions  
13 specifically about the payroll records of Special Police  
14 Force. At any time subsequent to the initial conference, did  
15 Special Police Force provide additional records to the Wage  
16 and Hour Division?

17 A Yes, they did. I believe Ms. Negrón made another call  
18 at some point during that month of July 2014 and requested  
19 more records, and I -- we received those records, of course.

20 Q What kinds of records did Special Police Force provide?

21 A We basically received payroll records and payroll and  
22 attendance sheets for the last two years at that point. From  
23 that point back.

24 Q Now, based on your understanding of the recordkeeping  
25 requirements of the Fair Labor Standards Act, was any

1 information missing from the records that Special Police  
2 Force provided?

3 A Yes. There was a lot of information missing from those  
4 records.

5 Q What was missing?

6 A First of all, we looked at the payroll registers. They  
7 didn't have any addresses of the employees, and they didn't  
8 have any overtime work recorded. There were no overtime pay  
9 premium recorded on those records. And there was no  
10 segregation of weeks as the recordkeeping regulations  
11 establish.

12 Q Can you explain more about what you mean by segregation  
13 of weeks as required.

14 A Yes. For the Fair Labor Standards Act, each week stands  
15 by itself. So the Fair Labor Standards Act establishes that  
16 if you work over 40 hours a week, you are entitled to  
17 overtime pay premium. So you have to segregate each work  
18 week.

19 Q I apologize if this question is obvious, but when you  
20 say work week, how long is a work week?

21 A Work week is a 7-day consecutive workdays.

22 Q And why is it that the Wage and Hour Division looks for  
23 records to be segregated by work week during an  
24 investigation?

25 A In order to establish if there was overtime work in

1 excess of law, work on excess of 40 hours in a week.

2 MR. GLICK: At this time I would like to show  
3 Mr. Vazquez Exhibit 2, which I believe the -- Defense Counsel  
4 has previously stated they have no objection to, but  
5 obviously...

6 THE COURT: Are there no objections to Exhibit 2  
7 being admitted?

8 Mr. Rodriguez?

9 MR. RODRIGUEZ-IZQUIERDO: No, no objection,  
10 Your Honor.

11 THE COURT: None from Mr. Arturo Guzman and  
12 Mr. Benjamin Guzman?

13 MR. A. GUZMAN-GUZMAN: No, Your Honor.

14 This is Arturo Guzman, for the record. No, no  
15 objection.

16 THE COURT: Mr. Guzman.

17 MR. B. GUZMAN-GUZMAN: Just give me a second,  
18 Your Honor.

19 THE COURT: Okay.

20 MR. B. GUZMAN-GUZMAN: No objection, Your Honor.

21 THE COURT: Admitted as Exhibit 2.

22 MR. GLICK: Thank you, Your Honor.

23 BY MR. GLICK:

24 Q Mr. Vazquez, do you recognize this document, Exhibit 2?

25 A Yes. That's a payroll record from Special Police Force

1 Corporation.

2 Q Now, do you see in the bottom right corner of Exhibit 2,  
3 where it says page 1 of 22?

4 A Yes, I do.

5 Q Do you know whether Special Police Force provided more  
6 than 22 pages of payroll spreadsheets during the  
7 investigation?

8 A Yes, they did, of course.

9 Q Is it fair to say that this is an excerpt of those  
10 payroll spreadsheets?

11 A Correct.

12 Q Now, ideally I would ask you to look at pages 1 through  
13 5, and then ask some questions.

14 MR. GLICK: May I approach the witness for those  
15 five pages?

16 THE COURT: Sure.

17 MR. GLICK: Thank you.

18 BY MR. GLICK:

19 Q Now, Mr. Vazquez, regarding pages 1 through 5 of  
20 Exhibit 2, what information do these spreadsheets pages have  
21 about employees hours?

22 A Well, this is a payroll record from the week of May 16  
23 to May 31st of 2013. We have the regular pay rate. We have  
24 the hours worked. We have the gross payment and the net  
25 payment of hours worked.

1 Q How long of a period is May 16th through May 30th?

2 A That's a 15-day period or semi-monthly pay period.

3 Q I apologize. I want to repeat the question. I  
4 misspoke.

5 The period from May 16th to May 31st, how long is  
6 that period?

7 A It's a 15-day pay period.

8 Q Now, from this page of Exhibit 2, are you able to tell  
9 whether employees worked overtime during this period?

10 A From a simple -- taking a look at simple -- yes. Yes.

11 Q And how is it that you are --

12 A This is overtime work because in a 15-day period or a  
13 semi-monthly pay period, if you work more than 80, 88, or 96  
14 hours, probably there will be overtime.

15 Q Are there employees, according to page 1, who worked  
16 more than 96 hours during that period, May 16th to May 31st?

17 A Yes.

18 Q Could you give us an example?

19 A The first one, Anel Gotai (phonetic).

20 Q Which column is it that you are looking at?

21 A Anel Gotai is on the first line, the fourth column,  
22 under hours.

23 Q How many hours did he work?

24 A 112 hours.

25 Q Is there anywhere in Exhibit 2 that breaks down the

1 hours employees worked, up to 40 hours in a work week, or  
2 above 40 hours?

3 A No.

4 Q Does Exhibit 2 have any information -- from the pages  
5 that you reviewed of Exhibit 2, does Exhibit 2 have any  
6 information about the total wages due to employees?

7 A Yes. At gross pay and the net pay. Under gross pay and  
8 net pay.

9 Q Do these pages of Exhibit 2 have any information  
10 specifically about the wages due for just the first 40 hours  
11 worked in a given work week?

12 A No, they don't have any information.

13 Q What about the wages due specifically for the straight  
14 time hours worked each day?

15 A No, there is no information about that neither.

16 Q In pages 1 through 5 of Exhibit 2, does it contain any  
17 information about employees' home addresses?

18 A No, there is no information about addresses.

19 MR. GLICK: Now I would like to take a moment to  
20 show the witness the rest of Exhibit 5, pages 6 through 22.

21 UNIDENTIFIED COUNSEL: Exhibit 2 or Exhibit 5?

22 MR. GLICK: Exhibit 2. I apologize.

23 BY MR. GLICK:

24 Q So let me next ask, have you had an opportunity,  
25 Mr. Vazquez, to review those remaining pages, or do you need

1 more time?

2 A No. It's okay. I have been able to review them.

3 Q Do any of the remaining pages of Exhibit 2 have any  
4 information about employees' home addresses?

5 A No, there is no information on employees' home  
6 addresses.

7 Q What about the total hours worked in a work week, do any  
8 pages of Exhibit 2 have that information?

9 A Yes.

10 Q Is there a particular page that you are referring to?

11 A Page 12. On page 12 we see that the employer did  
12 segregate the weeks in two weeks, two pay period. Week 7/29,  
13 that's July 29, to August 4 of 2014, and the week of August 5  
14 to August 11 of 2014. Those -- at that point on -- okay. At  
15 that point there were two weeks on the records.

16 Q Do I understand correctly that from approximately  
17 July 29th, 2014, on, the pages of Exhibit 2 do begin to  
18 contain information about hours specifically broke down by  
19 work week?

20 A Right, yes.

21 Q Now, do any pages of Exhibit 2 have information about  
22 the wages due specifically for hours worked in excess of 40  
23 in any given work week?

24 A No, there is no information about hours worked in excess  
25 of 40 per work week.

1 Q What about the wages due specifically for hours in  
2 excess of 40?

3 A No, there is no information about wages due.

4 Q Any information about wages due specifically for the  
5 first 40 hours in a given work week?

6 A Yes. There is regular pay rate and the hours -- the sum  
7 of the hours.

8 Q Is there any information on the face of Exhibit 2 about  
9 the total amount due for those hours, specifically the hours  
10 up to 40 in a work week?

11 MR. B. GUZMAN-GUZMAN: Objection, Your Honor.

12 Attorney Benjamin Guzman.

13 It's broad.

14 THE COURT: Identify yourself, and then.

15 MR. B. GUZMAN-GUZMAN: Attorney Benjamin Guzman.

16 The objection, it's on the grounds that the  
17 question is broad because the document, Exhibit 2, has 22  
18 pages. And already we know that from page 12 on they are  
19 different, they have a different column. And he is asking  
20 for the whole document on this particular question.

21 THE COURT: So you want him to go page by page  
22 after 12?

23 MR. B. GUZMAN-GUZMAN: To identify which pages he  
24 is referring to in the question, before July 29th or after  
25 July 29th, which he identified on page 12 as the date of the

1 change.

2 MR. GLICK: Could I ask another question,  
3 Your Honor?

4 THE COURT: Yes.

5 BY MR. GLICK:

6 Q From page 12 through page 22, is there any information  
7 about the total pay employees are due specifically for the  
8 first 40 hours worked in a work week?

9 A Yes, we have information about that, about the first 40  
10 hours worked within a pay period.

11 Q And what information is that?

12 A We have the hours worked. We have the regular rate of  
13 pay. We have the total hours worked and the gross pay. All  
14 hours worked were paid straight time.

15 Q Is the gross pay broken down in any way?

16 A No. No, there is none.

17 Q If I could call your attention to page 17 of Exhibit 2.

18 What period of time does page 17 of Exhibit 2  
19 correspond to?

20 A This first week is November 18 to November 24; that's  
21 the first week. Second week is November 25th to December  
22 1st, 2014.

23 Q Now, from page 17, can you tell if employees of Special  
24 Police Force worked in any excess of 40 hours in a work week?

25 A Yes. From this record, we can see that in some

1 instances, there are employees that worked more than 40 hours  
2 on a given week.

3 Q How can you tell?

4 A If we look at, for example, the column under week 11/18  
5 to the 24, you can see that for Angel Ayala, for example, we  
6 see that he worked 48 hours that week.

7 MR. GLICK: Excuse me one moment, Your Honor.

8 BY MR. GLICK:

9 Q Now, Mr. Vazquez, can you explain why it's important or  
10 why it's required, based on your understanding, for an  
11 employer to break out the hours up to 40 and over 40 on the  
12 payroll records?

13 A Yeah, because the law basically states that in excess --  
14 if you work in excess of 40 hours a week, you are entitled to  
15 overtime pay.

16 Q Now, I would like to turn next to Exhibit 3.

17 MR. GLICK: May approach the witness to retrieve  
18 these pages?

19 THE COURT: Yes.

20 BY MR. GLICK:

21 Q Now, Mr. Vazquez, I am showing you what's been marked as  
22 Exhibit 3. Can you tell from the first page what Exhibit 3  
23 is?

24 A That's an attendance sheet for Special Police Force  
25 Corporation -- the name of the post is Villa Venecia -- from

1 May 16 to the 31st of 2013.

2 Q And what information does Exhibit 3 contain about  
3 employees' hours?

4 A We got the name of the employee. We got the hour of the  
5 beginning of the shift. We got the hour of the end of the  
6 shift. We have the date and signature of the employee and  
7 the total hours worked on that day.

8 Q From the first page of Exhibit 3, is there any  
9 information about the total hours each employee worked in a  
10 7-day work week?

11 A No, there is no information about the total hours worked  
12 in a 7-day pay period.

13 MR. GLICK: Your Honor, may I approach the witness  
14 to show additional pages of Exhibit 3, the first three pages?

15 THE COURT: Yes.

16 BY MR. GLICK:

17 Q Mr. Vazquez, I am now showing you the first three pages  
18 of Exhibit 3.

19 Can you tell if those pages correspond to the same  
20 post, or are they from different posts?

21 A No. It's basically the same post.

22 Q Is it the same dates or different dates?

23 A Same dates.

24 Q Is there any information on the first three pages of  
25 Exhibit 3 about the total hours each employee worked in a

1 7-day work week?

2 A No, there is no information on it.

3 Q Do those three pages contain any information about  
4 employees' pay?

5 A No. There is no information about the employees' pay.

6 Q What about home addresses?

7 A No home addresses neither.

8 MR. GLICK: Now I would like to show the witness  
9 the remaining pages of Exhibit 3, four through twelve.

10 THE COURT: Yes.

11 BY MR. GLICK:

12 Q Mr. Vazquez, if you could take a few moments or as much  
13 time as you need to review the remaining pages of Exhibit 3,  
14 pages 4 through 12, and I am going to ask you some of the  
15 same questions about those pages.

16 The remaining pages of Exhibit 3, pages 4 through  
17 12, do they have any information about the total hours worked  
18 by employees in a given work week?

19 A No, there are no information about the hours worked on a  
20 work week.

21 Q What about employees' pay? Any information about that?

22 A No, there is no information about the pay rate.

23 Q What about the total pay due?

24 A No, there is no information about the total pay due.

25 Q Any information about pay due?

1 A No.

2 Q What about employee addresses?

3 A No, there is no employee addresses.

4 Q Now, during the investigation, did Special Police Force  
5 provide any documents containing employees' home addresses?

6 A Yes, they did.

7 Q Was that information for all employees or some or...?

8 A Investigator Negrón asked for those records, and she  
9 received partial records of employees' addresses.

10 Q What do you mean by partial?

11 A We received -- based on the number of employees that the  
12 company has at that moment, we received a few addresses from  
13 them.

14 Q Do I understand correctly that it was for some employees  
15 but not all employees?

16 A For some employees, that's correct.

17 MR. GLICK: May I approach to retrieve Exhibit 3,  
18 Your Honor?

19 THE COURT: Yes.

20 BY MR. GLICK:

21 Q Now, you began to mention some additional conversations  
22 between Investigator Negrón and the company during the  
23 investigation. I would like to ask a little bit more about  
24 that.

25 Do you know how many further conversations

1 Ms. Negron had with any representatives of the company after  
2 the initial conference?

3 UNIDENTIFIED COUNSEL: Objection, Your Honor.  
4 There are no grounds for that. He doesn't testify whether he  
5 had any personal knowledge of how many times she --

6 THE COURT: Well, he testified that he was the  
7 direct supervisor of the investigator, that they met daily  
8 every day, that there is a record kept in the regular course  
9 of business, so the objection is overruled.

10 Please answer.

11 BY MR. GLICK:

12 Q After the initial conference, do you know if  
13 Investigator Negron had additional conversations with  
14 representative representatives of Special Police Force?

15 A Yes, she did, of course.

16 Q Do you know about how many additional conversations?

17 A Maybe between six -- five or six times.

18 Q What period of time was that during?

19 A That was between the initial conference and the last  
20 meeting that we had on December.

21 Q December of what year?

22 A Of 2014.

23 Q How, if at all, were records or notes made of those  
24 conversations between Ms. Negron and representatives of the  
25 company?

1 A As I said before, we keep what we call a case diary.  
2 Every time an investigator does anything regarding the case,  
3 she has to go into the system and make a notation.

4 Q Do you know whom Ms. Negrón contacted to obtain those  
5 additional employee addresses that you mentioned?

6 A The main point of contact was Mr. Rivera.

7 Q Do you know approximately what date Ms. Negrón contacted  
8 Mr. Rivera to request that information?

9 A From the case diary, at some point during the end of the  
10 month of July, she made contact with Mr. Rivera to ask for  
11 the records.

12 Q Do you know how he responded?

13 A I believe positive, because we received the records at  
14 some point later.

15 Q Do you remember the dates or any other details, or are  
16 you familiar with any other dates or details of Ms. Negrón's  
17 contacts with Mr. Rivera during the investigation?

18 Let me start by asking about phone conversations.

19 A I believe that they had a couple of phone conversations,  
20 of course.

21 Q What about any other meetings, specifically between  
22 where Ms. Negrón and Hector Rivera were present?

23 A At some point, the end of July, beginning of August, we  
24 had what we call pre-final conference, and we met -- I was  
25 present at that meeting. We met with Mr. Rivera, Mr. Torres,

1 and at that point they hired a legal representation, I  
2 believe his name was Mr. Santiago.

3 Q Where did that meeting take place?

4 A We had a meeting at the district office.

5 Q What was discussed at that meeting?

6 A At that meeting, we discussed basically the preliminary  
7 findings in the case. We discussed the issue of the  
8 overtime. We discussed the computation that we already have  
9 done regarding the debt in terms of the overtime that was  
10 owed to the employees. At that meeting we discussed the  
11 financial situation of the company. And I believe at that  
12 meeting we also handed them a copy of the computations that  
13 we had done.

14 Q When you testified about the issue of the overtime, can  
15 you explain more about what that issue was or what the  
16 findings were regarding the issue of overtime?

17 A Well, we find during our investigation that the -- all  
18 the employees were paid straight time for overtime, that no  
19 overtime was paid on excess of 40 hours per week. So we  
20 basically went and did the computations for all the hours  
21 worked in overtime, and we presented those findings.

22 We also -- at that point when we entered, we  
23 discussed about the situation -- the financial situation of  
24 the company. And we also discussed the regular practice here  
25 in Puerto Rico.

1 Q Let me ask a question. Who said something about the  
2 regular practice in Puerto Rico that you just mentioned?

3 A Well, at that point I am not clear if Mr. Rivera or  
4 Mr. Torres, they were discussing -- they --

5 MR. B. GUZMAN-GUZMAN: Objection, Your Honor.

6 Attorney Benjamin Guzman.

7 The witness is not being responsive. You asked who  
8 was the person that mentioned the regular practice in  
9 Puerto Rico, and he is not sure if it was Rivera or somebody  
10 else.

11 THE COURT: No. He said he wasn't sure if it was  
12 Rivera or Santiago; correct?

13 THE WITNESS: That's correct.

14 THE COURT: So he knows. One or the other.

15 MR. B. GUZMAN-GUZMAN: That would be the answer,  
16 one or the other.

17 THE COURT: No. The answer was that he believed  
18 that it was Hector Rivera or Santiago.

19 THE WITNESS: No, Mr. Torres.

20 THE COURT: And he is not sure which.

21 THE WITNESS: Mr. Torres.

22 THE COURT: Torres. I am sorry.

23 BY MR. GLICK:

24 Q Now, what was it that one of those people said or  
25 discussed about that -- the general situation?

1 A We were discussing that in order to be in business, in  
2 order to have a security guard company in Puerto Rico and to  
3 be in business, the regular practice here is to pay straight  
4 time for overtime for all hours worked.

5 There is a lot of competition in the industry, and  
6 they have to try to get the best rates available to be able  
7 to compete in the field.

8 Q That was an explanation that either Mr. Rivera or  
9 Mr. Torres provided?

10 A That was the explanation why they incurred in the  
11 violation of the overtime.

12 Q Now, subsequent to that meeting, did you personally  
13 attend any other meetings during the course of this  
14 investigation with representatives from Special Police Force?

15 A Yes, I did.

16 Q When was the next meeting?

17 A We had a meeting maybe a couple of weeks later, at the  
18 beginning of August or at the middle of August of 2014. In  
19 that meeting, we basically discussed the alternative of a  
20 payment plan in order to cover for the debt.

21 Q Where did that meeting take place?

22 A In our district office.

23 Q Who attended that meeting?

24 A In that meeting the investigator; in that meeting  
25 Mr. Santiago, the attorney for the company; Mr. Rivera and

1 Mr. Torres.

2 Q And what was the outcome of that meeting?

3 A We discussed a possible payment plan. They were  
4 requesting a three-year payment plan. At that time we were  
5 not able to give them a three-year payment plan. Our limit  
6 at that point is three years.

7 So, in order for us to give them special treatment,  
8 in order to give them an extension of a payment plan, we  
9 requested some financial documents.

10 Q Were there any meetings that you participated in  
11 subsequent to that meeting?

12 A After that meeting, we met at the final conference.

13 Q When was the final conference?

14 A December of 2014.

15 Q Where did that take place?

16 A At the district office.

17 Q Who was present?

18 A Present in that meeting, the attorney for the firm,  
19 Mr. Santiago; Mr. Torres was in that meeting; Mr. Rivera and  
20 Mr. De Jesus.

21 Q What was the outcome of that conference?

22 A That conference, we informed the company that we were  
23 able to give them an extensive payment plan for three years,  
24 but at the same time they have to sign what we call an  
25 enhanced compliance agreement.

1 Q At that meeting, was an agreement signed?

2 A No.

3 Q Did you participate in any meetings after that final  
4 conference with Special Police Force?

5 A No.

6 Q Now, Mr. Vazquez, other than the payroll records that  
7 you have looked at today on the stand and the attendance  
8 sheets you have looked at on the stand, did Special Police  
9 Force provide any other kinds of records to Wage and Hour  
10 Division during the investigation?

11 A I believe we received some financial records.

12 Q Any other kinds of payroll records?

13 A No.

14 Q Any other kinds of time records?

15 A No. Only the time sheets and the payroll records.

16 Q The kinds that we looked at today, or some other kinds?

17 A No. The ones that we look at today.

18 MR. GLICK: Your Honor, I have no further questions  
19 at this time.

20 THE COURT: Cross?

21 MR. GLICK: The Exhibits 2 and 3, shall I return  
22 them?

23 THE COURT: Yes.

24 Cross, Mr. Rodriguez? Or who is going to cross  
25 first?

1 MR. RODRIGUEZ-IZQUIERDO: Your Honor, I believe  
2 that brother counsel Benjamin will be conduction the first.

3 THE COURT: Okay.

4  
5 **CROSS-EXAMINATION**

6 BY MR. B. GUZMAN-GUZMAN:

7 Q Good afternoon, Mr. Vazquez.

8 A Good afternoon.

9 Q How long have you been at the U.S. Department of Labor  
10 division that you conduct -- that you direct?

11 A I have been a district director for the past 11 years.

12 Q You have testified that you had over 180  
13 investigations -- I did not catch -- was that a year or a  
14 month?

15 A A year.

16 THE COURT: Is it 180 or 280?

17 THE WITNESS: 180 to 200.

18 THE COURT: Okay.

19 BY MR. B. GUZMAN-GUZMAN:

20 Q And were you the supervisor of all those investigations?

21 A No.

22 Q You talked about the work of Ms. Myrta Negron. Am I  
23 correct, Myrta Negron? She was the field investigator in  
24 this case.

25 A Exactly.

1 Q The first thing she did was to make an appointment, as  
2 you stated before. And you also stated that she called  
3 Mr. Rivera. Why didn't she not call Mr. Eric Resto?

4 MR. GLICK: Objection. Foundation.

5 MR. B. GUZMAN-GUZMAN: If you have personal  
6 knowledge.

7 THE COURT: I will allow it, if he knows.

8 THE WITNESS: I don't know.

9 BY MR. B. GUZMAN-GUZMAN:

10 Q This was a security agency corporation; correct?

11 A Security guard corporation.

12 Q Security guard corporation. It was a corporation under  
13 the laws of Puerto Rico; am I correct?

14 A Yes.

15 Q And it's registered as a corporation under the laws of  
16 Puerto Rico; correct?

17 A All right.

18 Q At that time of 2014, was this corporation operational.

19 A Yes.

20 Q Did you know if the corporation had an operating license  
21 as a security agency?

22 A They should.

23 Q They should?

24 A Yeah.

25 Q And why do you assume that?

1 A Because in order to have a security guard corporation in  
2 Puerto Rico, you need a license to operate.

3 Q Are you familiar with the requirements to obtain that  
4 license?

5 A I do know some of the requirements, correct.

6 Q Who if somebody is capable of obtaining that license for  
7 a security agency services -- I am going to rephrase that  
8 question?

9 THE COURT: I think we are getting outside the  
10 scope of the direct. This line of questioning was not part  
11 of the direct. The questions were limited to the  
12 investigation conducted, so whatever circumstances of the  
13 company were not covered on direct.

14 MR. B. GUZMAN-GUZMAN: Well, Your Honor, the thing  
15 is that my client's, Hector Rivera, daily operations or daily  
16 contact with the corporation are in question here. We are  
17 contesting that he did not work -- was not there on the  
18 day-to-day operations.

19 THE COURT: You will have a chance to -- your  
20 client will have a chance to prove that with his witnesses  
21 and his testimony.

22 MR. B. GUZMAN-GUZMAN: Yes, but in his testimony,  
23 he is testifying that everything was done through my client  
24 Rivera.

25 THE COURT: Not that everything was done. He was

1 asked as to different things, and the witness testified that  
2 it was Mr. Rivera.

3 MR. B. GUZMAN-GUZMAN: No. The intermission from  
4 Myrta Negron was directly with Mr. Rivera, and he was at  
5 every meeting, he was at every contact, he was the person  
6 that they first contacted. That's where I am getting at. I  
7 want to differentiate, make a difference --

8 THE COURT: I will not allow questions outside of  
9 scope of the direct. So that being said, the line of  
10 questioning is not allowed.

11 If you want to prove your point otherwise, you can  
12 do it with other witnesses. Not with this one.

13 MR. B. GUZMAN-GUZMAN: Understood.

14 BY MR. B. GUZMAN-GUZMAN:

15 Q Now, when was -- the initial appointment, I heard it was  
16 July 4th; am I correct?

17 A No.

18 Q July what?

19 A The initial conference was held on July the 1st, 2014.

20 Q Do you know who was the Chief Executive Officer at that  
21 time?

22 A The president of the company.

23 Q The president of the company?

24 A Correct.

25 Q Do you have any evidence that demonstrates that, that

1 conclusion?

2 A Just our file. Basically, our initial conference --  
3 when we go to the initial conference, we ask who is the  
4 president of the company.

5 Q Is the president of the company to you the same as the  
6 Chief Executive Officer?

7 A Yes, it was the president. At that time, we only  
8 received information about the president of the company.

9 Q But you knew that the corporation had a license to  
10 operate as a security agency company, and he had a Chief  
11 Executive Officer that needed to be a licensed detective.

12 A We know from our experience that they need a license,  
13 but at that point our meeting was held with Mr. Rivera.

14 Q Who was the president on the corporation papers;  
15 correct?

16 A Correct. Was the person who was in the office at that  
17 point when we made our appointment.

18 Q Did Myrta Negrón made an appointment by phone, or she  
19 walked in and Mr. Rivera was there?

20 A She made an appointment by phone.

21 Q Did she try to contact him in the office?

22 A When?

23 Q To the best of your knowledge, before making the first  
24 appointment.

25 A No.

1 Q You testified that she had two ways -- that the  
2 investigator had two ways of getting the initial appointment.  
3 One was by phone, and the other one was walk in.

4 A In this case it was by phone, we made an appointment.  
5 It was not a surprise visit, as we call.

6 Q And why was that initial contact made, do you know?

7 A Why?

8 Q Yes.

9 A Because we need to set an appointment and meet with the  
10 representative of the company in order to get the  
11 information.

12 Q By why did you pick Special Police Force?

13 MR. GLICK: Objection, Your Honor. The question,  
14 as I understand it, inquires into the reason for an  
15 investigation and the decision by a Government agency to  
16 enforce the law. The initial reason for that is protected by  
17 the deliberate of process privilege.

18 Also to the extent that investigations in general,  
19 some are driven by complaints. Others are not.

20 The Department of Labor's strong position is that  
21 the informant's privilege also protects the reason for an  
22 investigation being started, to the extent that there could  
23 be a chilling effect on workers reporting wage violations.

24 And so for all of these reasons, we strenuously  
25 object to this line of questioning.

1 THE COURT: Objection sustained.

2 MR. B. GUZMAN-GUZMAN: Your Honor, in this case the  
3 corporation is no longer working, and we are already at  
4 trial. All I want to know if it was a complaint or was  
5 selected randomly.

6 MR. GLICK: Same objection.

7 MR. B. GUZMAN-GUZMAN: I don't need the name --

8 THE COURT: Objection sustained. This company is  
9 still -- it's not same company. It's another company.

10 MR. B. GUZMAN-GUZMAN: I respectfully do not agree  
11 that they have another company. It's a different company,  
12 Your Honor. And I do not agree with that.

13 THE COURT: It may be a different company, but I --  
14 I may be mistaken, but I believe it's also owned by  
15 Mr. Rivera.

16 MR. B. GUZMAN-GUZMAN: There is another company  
17 where Mr. Rivera is the shareholder, but it's not brought up  
18 in this complaint.

19 THE COURT: In any event, the objection is  
20 sustained for the grounds expressed by Mr. Glick.

21 MR. GLICK: Your Honor, just so the record is  
22 clear, we would make the same objection regardless of whether  
23 there is a successor company in any kind of form.

24 THE COURT: Okay.

25 MR. GLICK: Thank you, Your Honor.

1 THE COURT: Noted.

2 BY MR. B. GUZMAN-GUZMAN:

3 Q Do you have any knowledge if Ms. Myrta Negron tried to  
4 contact the chief executive of the company?

5 A Not to my knowledge.

6 Q Do you have any knowledge if she ever had a conversation  
7 with Eric Resto, Detective Eric Resto?

8 A Not to my knowledge.

9 Q Do you have any knowledge of who the licensed  
10 detective -- I am going to rephrase that.

11 Do you have any knowledge of who was the licensed  
12 detective who operated Special Police Force?

13 MR. GLICK: I would just object to the form. The  
14 additions of the words "operated the company."

15 MR. B. GUZMAN-GUZMAN: Well, Your Honor --

16 THE COURT: What do you mean by operated?

17 MR. B. GUZMAN-GUZMAN: Your Honor, in order to have  
18 a license to operate as a company, you need to comply, and  
19 the Chief Executive Officer --

20 THE COURT: One thing doesn't have to do with the  
21 other. You can have a licensed detective and have someone  
22 else who does the decision-making.

23 MR. B. GUZMAN-GUZMAN: That's what I am getting at.

24 THE COURT: Why are you tying --

25 MR. B. GUZMAN-GUZMAN: Because the law requires,

1 the law of private detectives of Puerto Rico requires that  
2 the chief executive operator has to be a licensed detective,  
3 valid licensed detective. And this company had one. His  
4 name was Eric Resto, and he was there at the company at the  
5 time of the intervention.

6 THE COURT: Well, what does that have to do with  
7 the testimony of the director? I think you are posing  
8 questions which this witness doesn't have any knowledge toe.

9 MR. B. GUZMAN-GUZMAN: Well --

10 THE COURT: You are trying to bring up matters  
11 which I believe are outside the scope, and you may bring that  
12 forward when your client has a chance to present his  
13 witnesses.

14 MR. B. GUZMAN-GUZMAN: Okay. All right.

15 BY MR. B. GUZMAN-GUZMAN:

16 Q You testified about Exhibit No. 2.

17 Now, before that, do you have any knowledge of who  
18 kept payroll records for Special Police?

19 A Who kept the payroll records?

20 Q Yes. Who was the person in charge of payroll records  
21 for the company?

22 A Yes. Mr. Rivera and Mr. Torres were in charge of the  
23 payroll records.

24 Q Do you have any documents that prove or suggest that  
25 Mr. Rivera was the person that kept the payroll records?

1 A Yes. From the initial conference notes -- that  
2 information is on our initial conference notes.

3 Q Are those notes conclusions from Myrta Negron?

4 A What do you mean by conclusions?

5 Q Well, they are the notes. They are no official  
6 documents of the company.

7 Are the notes conclusions of Ms. Myrta Negron based  
8 on whatever she saw?

9 MR. GLICK: Objection. Argumentative.

10 THE COURT: Sustained.

11 BY MR. B. GUZMAN-GUZMAN:

12 Q Who wrote those notes that you are talking about?

13 A Investigator Myrta Negron.

14 Q Where did she get the information?

15 A From the interview that she did from Mr. Rivera and  
16 Mr. Torres at the place of business.

17 Q My question is, based on your answer, I can conclude  
18 that you don't have any document that states that Mr. Rivera  
19 was in charge ever payroll records?

20 MR. GLICK: Objection. Asked and answered.

21 THE COURT: It's a matter of semantics as to what a  
22 document is within your definition. There are some notes  
23 which the witness states that say that.

24 MR. B. GUZMAN-GUZMAN: I am trying to get the  
25 involvement of Mr. Rivera in payroll records. He is telling

1 me that Mr. Rivera had payroll records and the accountant was  
2 the one keeping payroll records.

3 THE COURT: No. He said both were in charge of the  
4 payrolls and that information comes from the notes that  
5 Ms. Negron took at the initial conference. That's the basis  
6 of the witness' note.

7 BY MR. B. GUZMAN-GUZMAN:

8 Q My question is -- or the base of your knowledge and --  
9 to your personal knowledge, is there any document that  
10 establishes that Mr. Rivera was in charge of payroll records?

11 MR. GLICK: Objection, Your Honor.

12 THE COURT: Grounds?

13 MR. GLICK: Same problem as --

14 THE COURT: It's the same question because it's a  
15 matter of what the attorney believes a document is.

16 MR. GLICK: Thank you, Your Honor.

17 The objection is, the witness has testified  
18 regarding the basis of his knowledge.

19 THE COURT: It's asked and answered.

20 MR. B. GUZMAN-GUZMAN: The objection was sustained;  
21 right?

22 THE COURT: Yes. Asked and answered.

23 MR. B. GUZMAN-GUZMAN: Okay. I am going to  
24 rephrase.  
25

1 BY MR. B. GUZMAN-GUZMAN:

2 Q To the best of your knowledge, if there is any record  
3 from the company, as suggested, that Mr. Rivera was in charge  
4 of recordkeeping. I guess it's a different question?

5 A To the best of my knowledge, there is no records of the  
6 company that establishes that Mr. Rivera was in charge of the  
7 recordkeeping.

8 Q On the notes from Ms. Negron, are there any notes that  
9 Mr. Resto was present at any of the meetings?

10 A Not that I recall.

11 Q Do you have any recollection, or are there any notes in  
12 your files about Mr. Resto's health condition since the  
13 intervention on July 1st?

14 A Not that I recall.

15 Q Do you have any knowledge if Mr. Resto is deceased at  
16 the present time?

17 A At the present time, I believe so, yes.

18 Q When did you find out that Mr. Resto had passed away?

19 A I don't know, but I don't remember the date.

20 Q Do you have any notes on the date -- or to the best of  
21 your recollection, are there any notes taken by Ms. Myrta, or  
22 have you received any information of the specific day that  
23 Mr. Eric Resto passed away?

24 A No, I don't have.

25 Q If I tell you he passed away on the 15th of August of

1 2014, would that be about right?

2 MR. GLICK: Your Honor, I object. We are getting  
3 beyond the scope of the cross. And I believe the witness has  
4 testified regarding the limits of his knowledge here.

5 THE COURT: I agree.

6 Sustained.

7 MR. B. GUZMAN-GUZMAN: Okay.

8 MR. GLICK: Your Honor, may I ask a point of  
9 clarification. I certainly want to respect the rights of all  
10 our counsel to proceed with cross-examination, but I am not  
11 sure about conferring among each other and then  
12 cross-examines three times.

13 MR. B. GUZMAN-GUZMAN: Your Honor, what I am doing  
14 is simply -- to make matters easier for the Court, I am  
15 dividing, just briefly -- divide with brother counsel Arturo  
16 Guzman the discussion, who was going to go over the  
17 discussion of Exhibits 2 and 3, so that I don't have to go on  
18 my intermission about it, and he can do it on his.

19 THE COURT: Okay.

20 MR. B. GUZMAN-GUZMAN: That was it.

21 THE COURT: They are trying not to ask the same  
22 questions.

23 MR. B. GUZMAN-GUZMAN: Exactly. Not to cover the  
24 same areas.

25 THE COURT: I will appreciate that because that was

1 not followed in the prior cross of Ms. Ortiz. Same areas  
2 were covered.

3 BY MR. B. GUZMAN-GUZMAN:

4 Q Mr. Vazquez, you testified that the financial situation  
5 of the company came to discussion during the meetings, but  
6 you did not tell us what was the financial situation of the  
7 company. What was it?

8 A At that point they have a difficult financial situation,  
9 and they were not able to pay all the back wages at one time.

10 Q That was in -- before or after August?

11 A That was after August that we became aware of that  
12 financial situation.

13 Q Before August, from your experience, do you think that  
14 the corporation would have been able to pay the debt to the  
15 Department of Labor if it were properly operated?

16 MR. GLICK: Objection. It calls for speculation,  
17 and I think it exceeds the scope of the purpose for which  
18 Mr. Vazquez testified.

19 THE COURT: Sustained.

20 The premise was "do you think." That goes to  
21 speculation.

22 MR. B. GUZMAN-GUZMAN: Well, I was acting based  
23 on --

24 THE COURT: In any event, he is not a financial  
25 officer to be making that assessment of a company that he

1 doesn't work for.

2 BY MR. B. GUZMAN-GUZMAN:

3 Q There was a possible payment plan requested of a  
4 three-year payment plan; am I correct?

5 A We usually don't give payment plans in excess of two  
6 years, so at some point they requested a three-year payment  
7 plan.

8 Q I am going to jump to another area.

9 You testified that at some point Attorney  
10 Santiago-Malavet, who passed away, became the Special Police  
11 legal representative in this matter. Do you remember what  
12 months and years he appeared?

13 MR. GLICK: Objection. I don't think it accurately  
14 characterizes the witness' testimony regarding the attorney.

15 THE COURT: He mentioned that Attorney Santiago was  
16 at a meeting, but that was basically it.

17 MR. B. GUZMAN-GUZMAN: No. A couple of meetings.  
18 But I wanted to know what months did he -- was it early in  
19 July?

20 THE COURT: What's the relevancy as to that?

21 Not relevant. Move on.

22 MR. B. GUZMAN-GUZMAN: Okay. I am going to  
23 rephrase.

24 Your Honor, I am not going to ask any more  
25 questions.

**CROSS-EXAMINATION**

BY MR. A. GUZMAN-GUZMAN:

Q Good afternoon.

A Good afternoon, sir.

Q You stated in your testimony that there were about five meetings; right? The first one that went along was with Mr. Andujar; is that correct -- Mr. Rivera. Excuse me?

A I was present at three meetings.

Q How many meetings were there in this case with Ms. Myrta Negrón? How many meetings were there?

A At least six meetings with Mr. Rivera.

Q Your presence was random, in random meetings, or you appear in the last three meetings? First three meetings?

A I was present in the last three meetings that we had.

Q Do you have any documents that establish on which -- or where was the -- excuse me. Let me rephrase that.

On the last meeting you said that Mr. De Jesus was there.

A Correct.

Q You have a document that attests to that?

MR. GLICK: Objection. This witness is not a custodian of documents.

MR. A. GUZMAN-GUZMAN: Your Honor, this witness has testified about an investigation done by another person. So it implies, and as he said, he read the file. He is

1     testifying about that file.

2             THE COURT:   I will allow it.

3             MR. GLICK:   I withdraw the objection, Your Honor.

4     BY MR. A. GUZMAN-GUZMAN:

5     Q     Do you have any documents that establish that  
6     Mr. De Jesus was there?

7     A     Yes, we do.

8     Q     Do you have it with you?

9     A     No, I don't have it with me.

10            THE COURT:   Were you at that meeting, sir?

11            THE WITNESS:  I was in the meeting.

12     BY MR. A. GUZMAN-GUZMAN:

13     Q     What will be that document that you say establishes that  
14     Mr. De Jesus was at that meeting?  What was the name of the  
15     document?

16     A     As I said before, we keep a file.  Within this file we  
17     have a case diary.  In that file we also have a case  
18     narrative.

19     Q     The question is simple.

20            THE COURT:   Finish answering.

21            Did he finish answering the question?

22            MR. A. GUZMAN-GUZMAN:  Your Honor, he is talking  
23     about what is compiled in the file.  And I just asked him --  
24     testified about that, the diary, the notes, the investigation  
25     notes.  I just want to know what was the document.  What's

1 the name of the document. I don't want to -- I just want him  
2 to just go directly. What was the document, not what the  
3 file contains. That is not the question. It's what is the  
4 document that establishes the persons that were there.

5 THE WITNESS: As I was trying to say, in the file  
6 we have a case narrative. In the case narrative we have  
7 every action that has been taken in that case.

8 We also have a case narrative. In the case  
9 narrative, we have a disposition section. In that  
10 disposition section, basically it explains how the case ends  
11 up.

12 So in that disposition section, we have the persons  
13 who were present at the last conference or what we call the  
14 final conference.

15 BY MR. A. GUZMAN-GUZMAN:

16 Q I am kind of lost there because you said the case  
17 narrative two times. There is two case narratives?

18 A No. There is only one case narrative.

19 Q You started talking about the diary, and you said there  
20 was one case narrative. Then about the investigation, you  
21 said about the notes, and you said case narrative again.

22 Where is the case narrative? In the diary or the  
23 case notes, or it's both the same?

24 A No. There is one document that is called diary, case  
25 diary. And there is another document in the file that is

1 called the case narrative.

2 Q Did you personally file that document, it would be  
3 redundant, at that file?

4 A I don't understand the question.

5 Q Who made -- let me rephrase the question.

6 Who made that document that says that Mr. De Jesus  
7 was there?

8 A The investigator.

9 Q So you didn't do it?

10 A No. That's part of the investigation.

11 Q Hold on a second.

12 So your testimony is that the document that states,  
13 just tell me if I am not correct, that Mr. De Jesus was at  
14 that meeting was done by Myrta Negrón. That is what you just  
15 testified.

16 A Yes. She wrote --

17 Q Thank you.

18 A -- that document.

19 Q Thank you.

20 And to the best of your knowledge, that happened  
21 just once in this case; yes or no?

22 THE COURT: What happened once?

23 MR. A. GUZMAN-GUZMAN: A meeting that was present  
24 De Jesus.

25 THE COURT: Okay.

1 BY MR. A. GUZMAN-GUZMAN:

2 Q To the best of your knowledge, the presence of De Jesus  
3 in any meeting only happened once.

4 A To the best of my knowledge, yes, only once.

5 Q And what's the time of that report that we are talking  
6 about now done by Myrta Negron?

7 MR. GLICK: Objection. Asked and answered.

8 THE COURT: Sustained.

9 MR. A. GUZMAN-GUZMAN: Your Honor, it's another  
10 question. The question is, it happened just one time, and  
11 that report -- we are talking about the same. I just want to  
12 make sure that that report was filed by Ms. Myrta Negron.

13 THE COURT: That has been asked and answered a  
14 couple of times already.

15 MR. A. GUZMAN-GUZMAN: I withdraw the question.

16 BY MR. A. GUZMAN-GUZMAN:

17 Q Any other filing -- let me rephrase that question.

18 Did you ever file any notes in the five case of  
19 Special Police?

20 A Did I did --

21 Q Did you personally?

22 A No.

23 Q That would also mean that in regard to those meetings  
24 that you were with Special Police, you didn't file any notes  
25 on that -- you didn't file any notes of that discovery by --

1 A No.

2 Q There were six meetings, approximately six meetings that  
3 you said.

4 A Five to six meetings.

5 Q Okay. I want to know in which ones you were present.  
6 The first? The second?

7 THE COURT: He already testified he was at the last  
8 three meetings based on a question that you posed previously.

9 BY MR. A. GUZMAN-GUZMAN:

10 Q Do you know in those three last meetings that you were,  
11 in all was Attorney Santiago-Malavet present; right?

12 A To the best of my knowledge, yes.

13 Q And you know the capacity in which he was present in  
14 that meeting.

15 A As a legal representation from Special Police.

16 Q You talk that Mr. Rivera was present. I am talking  
17 about Hector Rivera was present in those last three meetings  
18 that you were there.

19 A That's correct.

20 Q What was his capacity?

21 A As the president of the company.

22 Q You mentioned Mr. Andujar present in those three  
23 meetings.

24 A Not that I recall.

25 Q Anybody -- you mentioned Mr. Torres --

1 A Yes, I did mention Mr. Torres.

2 Q -- present in those three meetings that you were  
3 present.

4 A Yes.

5 Q What was his capacity?

6 A He was the accountant of the company.

7 Q Any other person present on those three meetings?

8 A As I told you before, I met with Mr. Rivera, Mr. Torres,  
9 and Mr. Santiago, twice. And at the last meeting of the  
10 final conference, Mr. De Jesus, Mr. Rivera, Mr. Torres.

11 Q Last meeting was Mr. De Jesus, Mr. Torres and  
12 Mr. Rivera. Anybody else?

13 A And Mr. Santiago.

14 Q I cannot assume. I have to ask you the question.  
15 Ms. Myrta Negrón was in all meetings; right?

16 A Yes, of course.

17 Q So it was another person on that meeting.

18 A Sorry about that.

19 Q Myrta Rivera (sic) was in the capacity of the  
20 investigator for the agency.

21 A Correct.

22 Q And you were in your capacity as supervisor for  
23 Mrs. Rivera; correct?

24 A Ms. Negrón.

25 Q I am sorry.

1 A I was there as the direct supervisor and as the district  
2 director.

3 Q Okay. So you were there as a direct supervisor and  
4 district director.

5 A Correct.

6 Q On what capacity was Mr. De Jesus in that sole meeting  
7 that you attest he was present on your sixth meeting; right?

8 A I don't know. I don't recall.

9 MR. A. GUZMAN-GUZMAN: Your Honor, in order to  
10 minimize the number of questions, may I confer with brother  
11 counsel?

12 THE COURT: Yes.

13 MR. A. GUZMAN-GUZMAN: No further questions,  
14 Your Honor.

15 THE COURT: Okay.

16 Mr. Rodriguez.

17 MR. RODRIGUEZ-IZQUIERDO: I am going to be very  
18 brief, Your Honor. I just want to ask the question a  
19 question.

20 **CROSS-EXAMINATION**

21 BY MR. RODRIGUEZ-IZQUIERDO:

22 Q Mr. Vazquez, you mentioned that it was at the last  
23 meeting, probably the sixth meeting, when De Jesus, according  
24 to you, attended the final meeting.

25 MR. GLICK: Your Honor, I want to respect the right

1 to cross-examine, but it sounds like the same contents so far  
2 as last cross-examination.

3 THE COURT: I don't know what the question is.

4 MR. RODRIGUEZ-IZQUIERDO: Well, Your Honor, it is  
5 that I am going to go as to the documents that may contain  
6 information to that effect and the accessibility of those  
7 documents in terms of best evidence.

8 THE COURT: Okay. Give me a second.

9 You want the last --

10 MR. RODRIGUEZ-IZQUIERDO: I am going towards the  
11 point of the best evidence rule, whether there is a document  
12 that could clarify or confirm the fact that Mr. De Jesus --

13 THE COURT: Would you please approach on that?

14 MR. RODRIGUEZ-IZQUIERDO: Yes.

15 THE COURT: Please approach.

16 (Whereupon, the following proceedings were held at  
17 sidebar:)

18 THE COURT: You keep insisting on a document.  
19 Mr. Vazquez was at the meeting present. And based on his  
20 recollection, he says that Mr. De Jesus was there. What  
21 better evidence can I have as to that? I don't need any  
22 document, but it's obvious that Mr. De Jesus can take the  
23 stand, and he can say, "I was not present." And then I will  
24 ask his credibility, and I will make a determination.

25 MR. RODRIGUEZ-IZQUIERDO: And if I may, Your Honor.

1 The thing is, Your Honor, assuming there is a document  
2 that --

3 THE COURT: There is a --

4 MR. RODRIGUEZ-IZQUIERDO: A minute, let's say.

5 THE COURT: There is nothing --

6 MR. RODRIGUEZ-IZQUIERDO: If it's readily  
7 accessible, then -- which would be the best evidence to  
8 establish his presence at that meeting. The testimony or a  
9 record of the company which is kept in the normal course of  
10 the business. So I am trying to see whether -- if that  
11 document is accessible, should not that document have been  
12 submitted?

13 THE COURT: But he was at the meeting. Mr. Vazquez  
14 was at the meeting.

15 MR. B. GUZMAN-GUZMAN: They haven't even identified  
16 Mr. De Jesus.

17 THE COURT: Did you ask him? This is not a  
18 criminal case that I need to identify anybody.

19 MR. B. GUZMAN-GUZMAN: I know this is not a  
20 criminal case, but if there is a best evidence that is  
21 available, why not bring it up?

22 THE COURT: Okay.

23 MS. JACOBS: May I just respond to that?

24 THE COURT: Yes.

25 MS. JACOBS: The Defendants in this case, we had a

1 long discovery period in this case, as you know. None of the  
2 Defendants cert any document requests, interrogatories, and  
3 chose not to do any depositions.

4 THE COURT: And this evidence was pro se for most  
5 of you.

6 MS. JACOBS: I am just noting that know discovery  
7 was conducted by the Defendants. Had they done discovery, a  
8 copy of the redacted file would have been turned over, but  
9 they asked for nothing. So I don't want there to be any  
10 impression that we are withholding -- that we withheld  
11 documents that should have been turned over.

12 We are not introducing these documents into  
13 evidence in this case. They had ample opportunity to  
14 discovery three years ago, and they chose not to.

15 MR. B. GUZMAN-GUZMAN: That is not it. They have  
16 the burden of proof, and they have to prove what they are  
17 saying.

18 THE COURT: And they have a person, a witness who  
19 under oath is saying that Mr. Freddy De Jesus was there.  
20 Mr. Freddy De Jesus can take the stand under oath and testify  
21 otherwise. That takes care of that.

22 MR. RODRIGUEZ-IZQUIERDO: Your Honor, if I may.  
23 But he is --

24 MR. B. GUZMAN-GUZMAN: The thing is that --

25 THE COURT: Your objection is on the record. I

1 will not allow it.

2 MR. RODRIGUEZ-IZQUIERDO: He has also testified  
3 that there are documents that can corroborate that appearance  
4 of that attendance.

5 THE COURT: I don't need corroboration of a  
6 testimony under oath.

7 MS. JACOBS: I don't think under the Rules of  
8 Evidence you can introduce documents to bolster a witness'  
9 testimony. That's my understanding.

10 THE COURT: I agree.

11 MS. JACOBS: Thank you.

12 (Back on the record.)

13 MR. RODRIGUEZ-IZQUIERDO: Your Honor, we have no  
14 further questions.

15 THE COURT: Any redirect?

16 MR. GLICK: No, Your Honor. Thank you.

17 THE COURT: Mr. Vazquez, you are excused.

18 (Witness excused.)

19 THE COURT: For time sake, I have to take care of  
20 some duty matters that will be let's say 15 minutes. Do you  
21 want to continue with the next witness today, or do you want  
22 to recess and then continue tomorrow? It's up to you.

23 I have nothing in my calendar tomorrow, nor Friday,  
24 but this case. But since I am on duty, there will be  
25 interruptions.

1 So it's up to you.

2 MS. JACOBS: Your Honor, our next two witnesses are  
3 adverse witnesses, Mr. Rivera and Mr. De Jesus. I am fine  
4 adjourning for today and picking it up tomorrow morning.

5 THE COURT: Okay.

6 MS. JACOBS: I will have the interpreters here for  
7 that.

8 THE COURT: How do you feel Mr. Rodriguez and both  
9 Attorney Guzman man? Do you want to recess until tomorrow?

10 By the way, staff leaves at 5:00, so I will not  
11 hold the trial beyond 5:00.

12 MR. RODRIGUEZ-IZQUIERDO: I have no problem in  
13 adjourning at this time to continue tomorrow.

14 Ismael Rodriguez, for the record.

15 THE COURT: Mr. Benjamin Guzman?

16 MR. B. GUZMAN-GUZMAN: I join my brother counsel.

17 THE COURT: And Mr. Arturo Guzman?

18 MR. A. GUZMAN-GUZMAN: That will be fine to  
19 continue tomorrow, but tomorrow I may have a situation. As I  
20 explained to the court, I am in the custody of my kid. So I  
21 need to leave just before 5:00.

22 THE COURT: At what time do you have to tell them  
23 up?

24 MR. A. GUZMAN-GUZMAN: It's here in Hato Rey. It  
25 will be at 5:00, so 4:45 would be perfect.

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1 THE COURT: Okay. We will conclude before that.

2 MS. JACOBS: I don't believe that if I start my  
3 direct with Mr. Rivera today I am going to finish.

4 THE COURT: That's fine. But in all honesty, I  
5 would rather recess now and take care of other matters today  
6 so I don't get too much behind.

7 If you want to leave your documents and papers  
8 here, that's fine. We will close the courtroom when we  
9 conclude, but it's up to you. So they will be safeguarded.

10 Tomorrow we will be resuming at 9:00.

11 MR. GLICK: Your Honor, may we just ask while we  
12 are discussing scheduling. Does the Court have a preference  
13 or a plan with regard to, at the conclusion of the parties'  
14 cases, whether the Court would prefer to hear any summations  
15 or oral argument or just take findings of fact? How does the  
16 Court plan to...

17 THE COURT: I will leave it to your discretion. If  
18 you want to make a closing argument -- there is no jury, so  
19 it's not, in essence, required. So it's up to you.

20 And as to findings or proposed opinions and order,  
21 I will make a decision as to that later.

22 MR. GLICK: Thank you, Your Honor.

23 THE COURT: Anything else at this time before we  
24 conclude?

25 MS. JACOBS: No, Your Honor.

(PROCEEDINGS ADJOURNED AT 5:00 P.M.)

Joe Reynosa, CSR, RPR  
Official Court Reporter

## REPORTER'S CERTIFICATE

I, JOE REYNOSA, Official Court Reporter for the United States District Court for the District of Puerto Rico, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a true and correct computer-aided transcript of proceedings had in the within-entitled and numbered cause on the date herein set forth; and I do further certify that the foregoing transcript has been prepared by me or under my direction.

S/Joe Reynosa

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